

THE CORPORATION OF THE MUNICIPALITY OF WHITESTONE

By-Law No. 37-2020

A By-Law to Regulate Open Air Burning

WHEREAS pursuant to Section 7.1 of the *Fire Protection and Prevention Act* (S.O. 1997, C.4 as amended), Council may pass by-laws to regulate the setting of open air fires in the Municipality of Whitestone, including establishing the times during which open air fires may be set;

AND WHEREAS Section 128 (1) of the *Municipal Act* (S.O. 2001, C.25 as amended), permits a local municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS pursuant to Section 429, subject to subsection (4), of the *Municipal Act* (S.O. 2001, C.25 as amended), a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act;

AND WHEREAS the Council of the Municipality of Whitestone deems it expedient to regulate the setting of open fires, including establishing the times during which open air fires may be set;

NOW THEREFORE, the Council of the Corporation of the Municipality of Whitestone enacts as a by-law the following:

Definitions

1. In this by-law:

- (a) **"Camp Fire"** means an Open Air Fire used for cooking and as a focal point for social activities;
- (b) **"Combustible Material"** means a solid or liquid that can be easily ignited and burned;
- (c) **"Daytime Burning Permit"** or **"Day Permit"** means a permit issued by the Fire Chief or his or her designate to burn in the day time;
- (d) **"Extinguish completely"** means the fire no longer has glowing embers and no longer emits heat or smoke.
- (e) **"Fire Chief"** means the person appointed by Council to act as Fire Chief for the Municipality of Whitestone, as defined in the *Fire Protection and Prevention Act*, 1997 or his or her designate;

- (f) **“Fire Hazard Rating”** means one of the following ratings established from time to time by the Fire Chief and communicated publicly by the Municipality to indicate the risk of forest fires based on changing conditions: LOW, MODERATE, HIGH, EXTREME;
- (g) **“Fire Season”** means the period from the 1st day of April to the 31st day of October in each year, as set out in the *Forest Fires Prevention Act (R.S.O. 1990, F.24, as amended)*;
- (h) **“Flammable Material”** means a solid, liquid, or vapour that may ignite immediately in contact with fire or high temperature;
- (i) **“Municipal Fire Ban”** means that the Fire Chief has issued an order prohibiting Outdoor Fires within the Municipality off Whitestone until further notice, pursuant to this By-Law.
- (j) **“Noxious Material”** includes tires, plastic, rubber products, drywall, demolition waste, construction waste, paint, animal organic waste, vegetable waste, food waste, biomedical waste, tar, asphalt products, batteries, pressure-treated wood, creosote-treated wood, and painted wood;
- (k) **“Open Air Fire” or “Outdoor Fire” or “Fire”** means an open flame or fire set outside of a building;
- (l) **“Portable Stove”** means a commercially manufactured portable device used for cooking that can be moved without mechanical assistance;
- (m) **“Responsible Person”** means the person or persons who have actual control over the open air burning and/or the property where the open air burning takes place;
- (n) **“Restricted Fire Zone”** means a specific area in Ontario where Outdoor Fires are not permitted for a specific period of time, pursuant to the *Forest Fires Prevention Act (R.S.O. 1990, Chapter F.24)* and *Ontario Regulation 207/96 (Outdoor Fires)* made thereunder;
- (o) **“Seasonal Fire Permit”** means a permit issued by the Municipality of Whitestone to set a Camp Fire in the open air for the duration of the Fire Season, subject to the restrictions of this By-Law.
- (p) **“Special Burning Permit”** means a permit issued by the fire Chief or his or her designate to set a fire other than a Camp Fire at a specified time and place and subject to conditions specified on the permit.
- (q) **“Smoking”** means smoking of any lit tobacco or cannabis product while walking or working in a forested area or on a fitness or walking trail.

Fire Permit Required

2. Any person setting an Open Air Fire in the Municipality of Whitestone during the Fire Season, except using a portable liquid or gas appliance in accordance with section 9. or a portable or permanent charcoal installation in accordance with section 10, shall
 - (1) first obtain a Seasonal Fire Permit from an authorized permit issuer, or a Special Burning Permit from the Fire Chief or his or her designate, and
 - (2) keep the applicable Seasonal Fire Permit or Special Burning Permit available for inspection at the location of the Fire at all times while the fire is set.

General Conditions of Outdoor Burning

3. The following general conditions shall apply to all outdoor burning and shall remain in force throughout the year:
 - (1) No person shall start an Outdoor Fire unless conditions will allow the Fire to burn safely from start until Extinguished Completely. In particular, the winds must not be high enough to carry embers or sparks to any Flammable or Combustible Material.
 - (2) No Noxious Material shall be burnt.
 - (3) The Fire shall be attended by a responsible person until the Fire is Extinguished Completely.
 - (4) The means to extinguish the Fire completely, including any means specified on the Fire Permit, shall be available at the site of the Fire at all times while the Fire is set.

Camp Fire for Cooking and/or Socializing

4. No person shall start or tend a Camp Fire for cooking and/or socialization during the Fire Season unless the person has first obtained a Seasonal Fire Permit issued under subsection 2.(1) and all the following conditions are met, in addition to the general conditions of Section 3. above:
 - (a) The Camp Fire is situated on bare rock or non-combustible material;
 - (b) The Camp Fire is surrounded by at least one (1) metre of non-combustible material;
 - (c) The Camp Fire is situated at least three (3) metres from any flammable material;

- (d) The Camp Fire is less than one (1) metre in diameter and less than (1) metre in height;
- (e) The Camp Fire is set after 6:00pm and Extinguished Completely before 6:00am if the Fire Hazard Rating is HIGH or EXTREME.

Brush Burning

5. No person shall start or tend an Open Air Fire during the Fire Season for the purpose of burning brush unless the person has first obtained a Special Burning Permit issued under subsection 2.(1) and all the following conditions are met, in addition to the general conditions of Section 3. above:
- (a) The material to be burned is limited to piled wood, brush, and/or discarded wood products;
 - (b) The pile is less than two (2) metres in diameter and less than two (2) metres high;
 - (c) The Fire is started after 6:00 p.m. and is extinguished before 6:00 a.m., unless the Fire Permit specifies otherwise;
 - (d) The Fire is situated at least three (3) metres from any Flammable Material.

Incinerator (day / night)

6. No person shall start or tend an Outdoor Fire in an incinerator during the Fire Season unless the person has first obtained a Special Burning Permit issued under subsection 2.(1) for burning in an incinerator and all of the following conditions are met, in addition to the general conditions of Section 3. above:
- (a) The incinerator is an enclosed device constructed entirely of non-combustible material;
 - (b) The incinerator is at least five (5) metres from any building or forested area;
 - (c) The incinerator is at least two (2) metres from any Flammable Material;
 - (d) The outlet of the incinerator is covered with a mesh having an opening of less than five (5) millimetres in size;
 - (e) Only paper, wood, brush, leaves or wood products are burned.

Burning Grass or Leaf Litter

7. No person shall start or tend an Outdoor Fire during the Fire Season for the purpose of burning grass or leaf litter unless the person has first obtained a Special Burning Permit issued under subsection 2.(1) for burning grass or leaf litter and all the following conditions are met, in addition to the general conditions of Section 3. above:
- (a) The total area to be burned does not exceed 0.5 hectares;
 - (b) The length of the flaming edge does not exceed ten (10) metres;
 - (c) The Fire is started after six 6:00 p.m. and is extinguished before 6:00 a.m.

Special Burning Permit

8. (1) The Fire Chief or his or her designate may issue a Special Burning Permit under subsection 2.(1) for the purpose of burning piled wood, brush, leaves, grass, leaf litter, or discarded wood products, excluding Noxious Materials, and may make the Fire Permit subject to one or more of the following conditions:
- (a) Restrictions on the date(s) and time(s) of day during which the burning may take place;
 - (b) Requirements that the Fire be or not be in a specific location, including its size and the distance that must be maintained from Flammable or Combustible Materials;
 - (c) Requirements that specific fire suppression equipment be present;
 - (d) Requirements regarding the method to be followed to extinguish the Fire;
 - (e) Any other factors that the official reasonably considers to be necessary to ensure that the Fire is made and extinguished safely.
- (2) Prior to issuing a Special Burning Permit, the Fire Chief or his or her designate may attend at and inspect the intended fire site, for which an administrative fee may be levied in accordance with the Municipality's Fees By-Law.

Portable Liquid or Gas Appliance

9. No person shall start or tend an Outdoor Fire using a portable liquid or gas appliance, including but not limited to a propane fire pit, unless all the following conditions are met:
- (a) The appliance is located at least one (1) metre from any Combustible or Flammable Material;
 - (b) The appliance is designed to use a liquid or gas as fuel;
 - (c) A liquid or gas is used as fuel;
 - (d) The flame in the appliance can be extinguished by closing a fuel control valve;
 - (e) The Fire is extinguished immediately after use and when no longer attended.

Portable or Permanent Charcoal Installation

10. (1) No person shall start or tend an Outdoor Fire using a portable or permanent installation designed to use charcoal as fuel unless all the following conditions are met:
- (a) The installation is at least one (1) metre from any Flammable Material;
 - (b) Commercially produced charcoal is used as fuel;
 - (c) The Fire is extinguished immediately after cooking is completed;
 - (d) The ashes and coals produced through combustion are Extinguished Completely and safely disposed of.

- (2) No person shall make a Fire in a portable or permanent charcoal installation during a Municipal Fire Ban or within a Restricted Fire Zone unless all conditions in sections 11.(1) are met, and the installation is being used within one hundred (100) metres of a permanent structure used as a dwelling.

Fire Bans and Restricted Fire Zones

11. (1) During a Municipal Fire Ban or within a Restricted Fire Zone, all existing Seasonal Fire Permits and Special Burning Permits are suspended and no person shall:
- (a) Start or tend an Outdoor Fire, except for cooking;
 - (b) Start or tend an Outdoor Fire for cooking except using:
 - (i) A liquid or gas cooking appliance used in conformance with Section 9 of this by-law,
 - (ii) A charcoal burning appliance used in conformance with Section 10 of this by-law,
 - (c) Smoke in a forested area or on a fitness or walking trail;
 - (d) Light or tend liquid or wax candles outdoors;
 - (e) Light or release a Chinese lantern;
 - (f) Discharge fireworks.
- (2) No person shall, without lawful authority, tear down, remove, damage, deface or interfere with any notice or sign posted or placed by the Municipality of Whitestone for the purposes of fire prevention.

Prohibitions

12. (1) No person shall start or tend an Outdoor Fire, or permit an Outdoor Fire to be set or maintained, contrary to any provision of this by-law.
- (2) No person shall contravene any conditions of setting or tending an Outdoor Fire under this by-law.
- (3) No person shall contravene any conditions of a permit issued under this by-law.
- (4) No person shall contravene an order to discontinue outdoor burning activity.
- (5) No person shall contravene an order to extinguish an Outdoor Fire.

Penalties

13. (1) Every person who contravenes any provision of this by-law is guilty of an offence and upon summary conviction is liable to a fine as provided for by the *Provincial Offences Act* (R.S.O.1990, Chapter P.33, as amended) and set out in Schedule A attached to and forming part of this by-law.
- (2) Any person who contravenes any provision of this by-law is guilty of an offence and pursuant to Part III of the *Provincial Offences Act*:
- (a) Upon a first conviction is subject to a minimum fine of \$100.00 and a maximum fine of \$5,000.00.
- (b) Upon a subsequent conviction is subject to a minimum fine of \$200.00 and a maximum fine of \$10,000.00.
- (3) Despite section 15(1), where the person convicted is a corporation, the corporation is liable,
- (a) On a first conviction, to a minimum fine of \$200.00 and a maximum fine of not more than \$10,000; and
- (b) On any subsequent conviction, to a minimum fine of \$1000.00 and a maximum fine of not more than \$25,000.00.
- (4) If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,
- (a) Prohibiting the continuation or repetition of the offence by the person convicted; and
- (b) Requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- (5) In addition to any set fine or penalty imposed pursuant to the *Forest Fires Protection Act* (R.S.O. 1990, Chapter F.24) or this by-law, a person or corporation convicted may be liable for any damages to person or property resulting from the offence, and for any costs incurred by the Municipality of Whitestone to attend to and /or extinguish a Fire.

Enforcement

14. This by-law shall be enforced by the Fire Chief and/or his or her designate, and/or any By-Law Enforcement Officer appointed by the Municipality, all of whom shall have the authority to issue tickets and lay charges pursuant to this by-law under the *Provincial Offences Act*.

15. By-Law No. 07-2003 is hereby repealed.

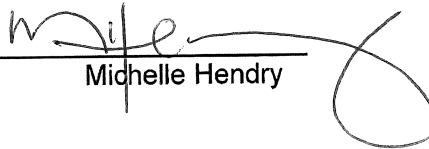
16. This By-Law shall come into force and take effect upon passage by Council.

READ a FIRST and SECOND time this 21st day of September, 2020.



Mayor

George Comrie



CAO/Clerk

Michelle Hendry

**READ a THIRD time and PASSED, SIGNED, SEALED and ENACTED
this 21st day of September, 2020.**



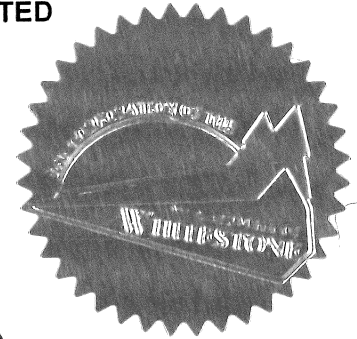
Mayor

George Comrie



CAO/Clerk

Michelle Hendry



**The Corporation of the Municipality of Whitestone
Schedule "A" to By-Law No. 37-2020**

ITEM	SHORT DESCRIPTION	RELATED BY-LAW SECTION	SET FINE
1	Unlawfully start a fire without a permit	2(1)	\$200.00
2	Fail to have permit available at fire site	2(2)	\$200.00
3	Start fire under unsafe conditions	3(1)	\$200.00
4	Burn noxious material	3(2)	\$200.00
5	Fail to tend fire until extinguished	3(3)	\$200.00
6	Fail to have means to extinguish fire	3(4)	\$200.00
7	Camp fire situated on combustible material	4(a)	\$200.00
8	Camp fire set within 1 metre of combustible material	4(b)	\$200.00
9	Camp fire set within 3 metres of flammable material	4(c)	\$200.00
10	Camp fire too large	4(d)	\$200.00
11	Daytime camp fire when fire hazard rating high or extreme	4(e)	\$200.00
12	Burn debris other than wood or wood products	5(a)	\$200.00
13	Brush fire larger than permitted	5(b)	\$200.00
14	Burn brush outside designated time	5(c)	\$200.00
15	Burn brush within (3) meters of flammable material	5(d)	\$200.00
16	Set fire in improperly constructed incinerator	6(a)	\$200.00
17	Use Incinerator closer than 5 metres to building or forest	6(b)	\$200.00
18	Use incinerator closer than 2 metres to flammable material	6(c)	\$200.00
19	Fail to have outlet of incinerator covered with correct size screen	6(d)	\$200.00
20	Burn debris other than wood or wood products in an incinerator	6(e)	\$200.00
21	Area of grass / leaf fire larger than permitted	7(a)	\$200.00
22	Flaming edge of grass / leaf fire larger than permitted	7(b)	\$200.00
23	Burn grass / leaves outside designated time	7(c)	\$200.00
24	Use liquid or gas stove within 1 metre of flammable or combustible material	9(a)	\$200.00
25	Use liquid or gas as fuel in stove not designed for same	9(b)	\$200.00
26	Use improper fuel in liquid or gas stove	9(c)	\$200.00
27	Use liquid or gas stove without working fuel control valve	9(d)	\$200.00
28	Fail to extinguish liquid or gas stove when cooking completed	9(e)	\$200.00
29	Use portable or permanent charcoal installation within 1 metre of flammable material	10(1)(a)	\$200.00
30	Use other than commercially produced charcoal as fuel in a portable or permanent charcoal installation	10(1)(b)	\$200.00

31	Fail to extinguish fire in portable or permanent charcoal installation when cooking completed	10(1)(c)	\$200.00
32	Fail to extinguish and safely dispose of ashes and coals	10(1)(d)	\$200.00
33	Set fire in a portable or permanent charcoal installation located more than 100 metres from a permanent structure used as a dwelling during a fire ban or restricted fire zone	10(2)	\$200.00
34	Start or tend a fire within a municipal fire ban or restricted fire zone, except for cooking	11(1)(a)	\$200.00
35	Start or tend a fire for cooking within a municipal fire ban or restricted fire zone using other than a permitted appliance	11(1)(b)	\$200.00
36	Smoke in a forested area or on a fitness or walking trail within a municipal fire ban or restricted fire zone	11(1)(c)	\$200.00
37	Light or tend liquid or wax candles outdoors within a municipal fire ban or restricted fire zone	11(1)(d)	\$200.00
38	Light or release a Chinese lantern within in a municipal fire ban or restricted fire zone	11(1)(e)	\$200.00
39	Discharge fireworks within a municipal fire ban or restricted fire zone	11(1)(f)	\$200.00
40	Unlawfully interfere with fire prevention signs	11(2)	\$200.00
41	Fail to comply with conditions / requirements of a permit	12(3)	\$200.00