

THE MUNICIPALITY OF CENTRAL MANITOULIN

BY-LAW 2020-14

(A BY-LAW TO REPLACE BY-LAW NUMBER 2002-25)

**BEING A BY-LAW 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 By-Laws 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 By-Laws 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 By-Law or otherwise that any matter or thing be done, the council may by By-Law 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 Municipality 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 Municipality of Central Manitoulin hereby enacts as follows:

1.0 Definitions

- 1.1 "Approved"** means approved by Chief Fire Official.
- 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 By-Law authorizing specific types of open-air burning. (i.e. brush and clean wood products)
- 1.6 "By-Law Enforcement Officer"** means a person duly appointed by the Municipality of Central Manitoulin to enforce its municipal By-Laws.
- 1.7 "Campfire"** means a fire set for cooking or warmth that is surrounded by a non-combustible fire safety ring and is not more than 1 metre high but 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 Municipality of Central Manitoulin.
- 1.11 "Deck"** means an attached or freestanding combustible platform adjoining a structure.
- 1.12 "Municipal Fire Ban"** means a complete ban of all open-air fires which is enacted by the Fire Chief Official or Designate within the Municipality by authority of the Fire Protection and Prevention Act S.O. 1997.
- 1.13 "Fire Department"** means the Municipality of Central Manitoulin Fire Department.

- 1.14 “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.
- 1.15 “Fire Season”** means the period 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).
- 1.16 “Incinerator”** means a completely self-contained high temperature furnace used to burn branches, clean wood waste and wood by-products to ash.
- 1.17 “Municipality”** means the Municipality of Central Manitoulin.
- 1.18 “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.
- 1.19 “Occupant(s)”** means a person(s).
- 1.20 “Provincial Offences Officer”** means a police officer, a constable appointed to any Act, a municipal law enforcement officer, a by-law enforcement officer or a person Designated by a minister of the Crown.
- 1.21 “Person”** means an individual, association, firm, partnership or corporation.
- 1.22 “Prohibited Area”** means the Hamlet of Mindemoya, the Hamlet of Providence Bay, the Hamlet of Spring Bay, the Hodgins Subdivision, the Nelder Subdivision and the Carters Bay Planned Development area.
- 1.23 “Registered Owner”** means the person(s) whose name appears on deed for the property.
- 1.24 “Restricted Fire Zone”** means an Order made by the Minister of Natural Resources and Forestry, under the Forest Fires Prevention Act, that restricts the use of open fires in a specific area of the province.

2.0 Burning Restrictions

- 2.1** No person shall set an Open-Air Fire unless conditions will allow the fire to burn safely.
- 2.2** No person shall set an Open-Air Fire 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 Municipality unless it is in an area Designated as (A) Agricultural or (R) Rural as per Central Manitoulin’s Official Plan and Comprehensive Zoning By-Law.
- 2.4** No Person shall set an Open-Air Fire during the Fire Season within the Municipality without having obtained a Burn Permit.
- 2.5** No person shall set an Open-Air Fire or burn in an Incinerator 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., such items shall be taken and disposed of at the landfill site.
- 2.6** No Person shall set or continue an Open-Air Fire between the hours of **6:00 a.m. through to 6:00 p.m.**
- 2.7** No Open-Air Fire shall be set unless there is a competent adult person to be in constant 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 without extinguishing the fire.
- 2.9** No Person shall set an Open-Air Fire 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:
- 2.10.1** A decrease in visibility on any highway.
 - 2.10.2** The rapid spread of fire through grass, brush, forested area or where property is not intended to be burned.
 - 2.10.3** 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:
 - 2.13.1.1** A highway or asphalt surface.
 - 2.13.1.2** On any municipal property unless prior arrangements have been made with either the Chief Fire Official, CAO/Clerk or Designate.
- 2.14** No Person shall set an Open-Air Fire in a Prohibited Area.

3.0 Conditions for Open-Air Burning

- 3.1** An approved Burn Permit shall 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 responsible competent adult 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 6:00 pm and 6:00 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 3.8 of this By-Law.

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:
 - 4.1.1** the burning device is not located on a balcony or deck.
 - 4.1.2** the burning device is not located on a combustible surface.
 - 4.1.3** the burning device is in good working order.
 - 4.1.4** 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 - Every person shall comply with the following provisions:

- 5.1** Propane, natural gas and charcoal barbeques or heating devices are exempt.
- 5.2** Any fires under the direct supervision of the Municipality Fire Department for training or demonstration purposes are exempt.
- 5.3** Campfires shall be Burn Permit exempt and shall be permitted in all areas provided, it is no greater than 48 inches (122 cm) in diameter in a Residential Zone, it is no greater than 26 inches (66 cm) in diameter in a Non-Residential Zone (Campgrounds & Trailer Parks only), surrounded by a non-combustible fire safety ring and is not more than 1 metre high.

6.0 Enforcement and Penalties

- 6.1** This By-Law shall be enforced by the Municipal By-Law Enforcement Officer, The Chief Fire Official, Designate or a Provincial Offences Officer.
- 6.2** Any person who contravenes or fails to comply with any provision of this By-Law 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 By-Law.
- 6.4** The Municipality reserves the right to recover the costs associated with the extinguishment of an Open-Air Fire, which has been set in contravention of this By-Law. These costs will be above any set fines and at a rate set by the Municipality.

7.0 Issuing/Revocation of Burn Permits

- 7.1** Any Person applying for a Burn Permit must do so in person at the Municipal office or on the Municipal website.
- 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 By-law 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

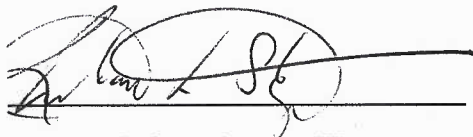
- 8.1** If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part in particular circumstances, the balance of the By-law or its application in other circumstances, shall not be affected and shall continue in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

9.0 Administration

- 9.1** This By-law repeals the Municipality of Central Manitoulin By-Law 2002-25.
- 9.2** This By-law will come into effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED

THIS 28TH DAY OF MAY 2020.

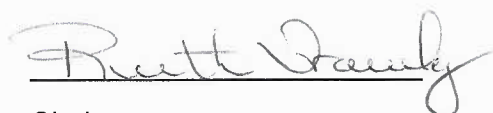


Richard Stephens, Mayor



Ruth Frawley, Clerk

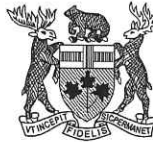
I, Ruth Frawley, Clerk of the Municipality of Central Manitoulin, hereby certify that the foregoing is a true copy of By-Law 2020-14 passed by the Council of the Municipality of Central Manitoulin on the 28 day of May, 2020.



Clerk

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

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. 2020-14, of the Municipality of Central Manitoulin, Manitoulin District, attached hereto is the set fine for that offence. This Order is to take effect June 26th, 2020.

Dated at the City of Greater Sudbury, this 12th day of June, 2020.

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

PATRICK BOUCHER
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

Municipality of Central Manitoulin

Part 1

Provincial Offences Act

By-Law 2020-14

Open-Air Burning By-Law

Schedule "A"

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 or combustible objects	2.2	\$200.00
3	Set fire in Burn Barrel in non-designated area	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 6:00 AM - 6:00 PM	2.6	\$200.00
7	Fail to have a competent adult person in charge/control	2.7	\$200.00
8	Leave or abandon unextinguished fire	2.8	\$300.00
9	Fire control tools or extinguisher not readily available	2.9	\$200.00
10	Causing reduced visibility on a highway	2.10.1	\$300.00
11	Causing a fire that spreads	2.10.2	\$300.00
12	Causing a fire that impacts neighbours adversely	2.10.3	\$300.00
13	Set fire during Municipal Fire Ban	2.11	\$500.00
14	Set fire in Restricted Fire Zone	2.12	\$500.00
15	Set fire on highway or asphalt	2.13.1.1	\$300.00
16	Set unauthorized fire on Municipality property	2.13.1.2	\$300.00
17	Set fire in a Prohibited Area	2.14	\$300.00
18	Permit oversize Campfire	5.3	\$200.00
19	Hinder or Obstruct Officer	6.3	\$500.00

Note: The penalty provision for the offences indicated above is section 6.2 of this By-Law No. 2020-14 of which a certified copy has been filed.

Note: Costs associated with extinguishing a fire caused by a contravention of this By-Law will be recovered by the Municipality as per section 6.4.

A handwritten signature in black ink, appearing to be 'C. Smith', is written over the bottom right of the page.