

The Township of Cavan Monaghan

By-law No. 2023-25

Being a by-law to prescribe the time for setting fires in the Township of Cavan Monaghan and the precautions to be observed

Whereas the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, provides:

- a. in subsection 7.1(1)(a) that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of the spreading of fires;
- b. in subsection 7.1(1)(b) that a council of a municipality may pass by-laws regulating the setting of open air fires, including the times during which open air fires may be set;
- c. in subsection 7.1(3) that a by-law passed under section 7.1 may deal with different areas of the municipality differently;

And Whereas subsection 11(2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes the municipality to pass by-laws respecting the health, safety and wellbeing of persons;

And Whereas the Municipal Act, 2001, S.O. 2001 c. 25, section 128(1), as amended, provides that a local municipality may 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 Council considers excessive smoke, smell, airborne sparks or embers to be or could become or cause public nuisances by creating negative health effects on neighboring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighboring properties and generating false alarms;

And Whereas under Section 35(1) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, the Fire Marshal, a Fire Chief or an Assistant to the Fire Marshal may issue an order to pay the costs incurred by the Province of Ontario or a municipality.

Now Therefore the Council of the Township of Cavan Monaghan hereby enacts as follows:

Section 1 – Definitions:

1.0 In this By-law:

- a. “Approved Device” means a chiminea or other unit that is:
 - i. a ULC/CSA approved device;
 - ii. in conformance with the Technical Standards and Safety Act, 2000, as amended;
 - iii. for outdoor use;
 - iv. Installed in accordance with the manufacturer’s instructions; and
 - v. approved by the Fire Chief.
- b. “Authorized Burning Material” means only environmentally friendly material including, but not limited to, natural wood and brush, and does not include,

among other things, pressure treated wood, recyclables, plastics and household waste.

- c. “Brush Pile” means branches or twigs in a pile larger than 46 cm x 46 cm (18” x 18”), but not to exceed 3 m x 3 m x 1 m (10’ x 10’ x 4’). Rural residents must be 100m (330’) from any structure to burn Brush Piles with a size not greater than 3m x 3m x 1m (10’x10’x 4’).
- d. “Built Up Area” means the Village of Millbrook, subdivisions, and surrounding hamlets including but not limited to Mount Pleasant, Cavan, Bailieboro, Ida and the Five Mile Turn.
- e. “Campfire” means an Open Air Fire of Authorized Burning Material contained within an Approved Device contained in such a way to prevent the spread of the fire, and which fire is no larger than 46 cm x 46 cm (18” x 18”), a minimum of 15 m (50’) from any structure, and is supervised by an adult at all times.
- f. “Fire Chief” means the Fire Chief of the Township of Cavan Monaghan, appointed under the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, or their designate.
- g. “Fire Department” means the Township of Cavan Monaghan Fire Department.
- h. “Municipality” means the Corporation of the Township of Cavan Monaghan and the geographic area thereof.
- i. “Occupant” means the person(s) residing in premises which they do not own.
- j. “Open Air Fire” means any fire which is set outside a building.
- k. “Owner” means the person(s) shown on the latest Assessment Roll.
- l. “Permit” means written authority provided by the Fire Chief in the form attached hereto as Schedule “A”, and which permit forms part of this by-law.
- m. “Tenant” means the person(s) renting or leasing premises.

Section 2 – General Conditions

- 2.0 All persons setting an Open Air Fire in the Municipality must first obtain a Permit from the Fire Department. Should any such fire spread, resulting in the attendance of the Fire Department, the penalties as set out herein will apply to the Owner and/or Tenant of the property.
- 2.1 All persons setting an Open Air Fire in the Municipality shall be responsible for any damage to property or injury to person occasioned by the said fire.
- 2.2 No Open Air Fire shall be maintained when the wind is in such direction or intensity so as to cause any or all of the following:
 - a. a decrease in visibility on any highway or roadway;

- b. a rapid spread of fire through grass or a brush area;
 - c. public nuisances by creating negative health effects on neighboring residents.
- 2.3 All fires shall be maintained in accordance with Schedule “A” attached hereto and forming part of this by-law.
- 2.4 Every person who contravenes any provision of this by-law is guilty of an offence and is liable to a penalty as set out in Section 3.
- 2.5 Notwithstanding the provisions hereof the Fire Chief may, upon application, approve the setting of any fire, subject to conditions set down by the Fire Chief. Any such approved burn may be subject to the Special Permit fee noted herein, together with any penalty, if applicable.

Section 3 – Penalties

- 3.0 A penalty may be issued at the discretion of the Fire Chief when **any or all** of the following conditions apply:
- a. An alarm is activated;
 - b. Emergency manpower and emergency equipment is dispatched;
 - c. Damage occurs to life or property;
 - d. The Owner and/or Tenant is not in possession of a valid Permit.
- 3.1 Any person setting, maintaining or allowing to burn a fire and all Owners of property upon which a fire is set, maintained or allowed to burn in the open air shall:
- a. be responsible for any damages to property occasioned by said fire; and
 - b. be liable for the cost of any firefighting equipment and personnel necessary to extinguish said fire, including aid from neighboring departments, together with applicable penalties as set out in Section 3.2 hereof.
- 3.2 Penalties may be issued as follows:
- First call – A minimum penalty as per the Municipality’s User Fees and Charges By-law. When costs of resources and manpower exceed the minimum penalty the Fire Chief, at their discretion, may add an additional penalty based on a formula of the Ministry of Transportation of Ontario (“MTO”) hourly rate times each Fire Department unit dispatched per hour. Any special equipment needed, not limited to Ministry of Natural Resources, other Fire Departments, or third party contractors, etc., will be billed at cost plus an additional amount 15 % of cost to cover up to \$5000.00 and 10% on any extraordinary expense exceeding \$5000.00 to cover administrative expenses in accordance with the Township’s User Fees and Charges By-Law.
- b. Subsequent calls – Penalties for subsequent calls will be invoiced to cover costs incurred by the Fire Department, including personnel and equipment called in to extinguish the said fire, based on a formula of the MTO hourly rate times each

Fire Department unit dispatched per hour. Any special equipment needed, not limited to Ministry of Natural Resources, other Fire Departments, or third party contractors, etc., will be billed at cost plus an additional amount 15 % cost to cover up to \$5000.00 and 10% on any extraordinary expense exceeding \$5000.00 to cover administrative expenses in accordance with the Township's User Fees and Charges By-Law.

Note: These penalties will be updated in the Municipality's User Fees and Charges By-law and come into effect in February 2023 or as amended.

- 3.3 Any unpaid arrears outstanding will be forwarded to the Municipality's Finance Department for collections, as per the Accounts Receivable Collections Policy.

Section 4 – Miscellaneous

- 4.0 This By-law may be cited as "Township of Cavan Monaghan Open Air Burning By-Law".
- 4.1 That By-law No. 2015-36 is hereby repealed in its entirety.
- 4.2 This By-law shall become effective immediately upon passing thereof.

Read a first, second and third time and passed this day of , 2023.

Mathew Graham
Mayor

Cindy Page
Clerk

Schedule "A"
To By-law No. 2023-25

Township of Cavan Monaghan



988 County Rd 10, Millbrook ON, L0A 1G0 •
Tel: 705-932-2765 • services@cavanmonaghan.net •

Brush Permit

Permit #BP-23-001

Valid From Jan 25, 2023 Occupant Name xxxxxxxx Rent or Own? Owner Open Burn Address xxxxxxxx Home Address xxxxxxxx	Expire Date Jan 25, 2024 Telephone (xxx) xxx-xxxx
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Terms and Conditions

This Permit forms part of the Township of Cavan Monaghan Open Air Burning By-law No. 2023-25 and contains terms as defined therein. This Permit is also subject to the following terms and conditions:

1. This Permit is not valid when winds are greater than 8 km/hr or 5 miles/hr, or if a burn ban is in effect.
2. The material to be burned shall be limited to wood or by-products of wood. The person who has obtained this Permit:
 - a. shall not permit more than 3 m x 3 m x 1 m (10' x 10' x 4') of material to be burned at any one time for property that meets the required setback in section 3 below;
 - b. shall ensure that the means of extinguishing the fire designated on the Permit is available at the site at all times during the fire;
3. Fires within Built Up Areas must be in an Approved Device, be contained to prevent the spreading of fire, and be a minimum of 15 m (50') from any structure for Campfires only. Rural residents must be 100 m (330') from any structure to burn Brush Piles with a size not greater than 3 m x 3 m x 1 m (10' x 10' x 4'). Special Permits may be issued for larger fires by the Fire Chief based on a plan approved by the Fire Chief. Rural residents on lots will be subject to the Built Up Area conditions.
4. This Permit may be cancelled or suspended at any time by the Fire Chief or their designate and immediately upon receiving notice of such cancellation or suspension; the Permittee shall extinguish any fire started under this Permit.
5. The Permittee shall keep this Permit at the site of the burning operation conducted under the Permit. The person in charge of the burning operation shall produce the Permit to any official of the Cavan Monaghan Fire Department or the City of Peterborough Fire Department (North Monaghan Ward only) when requested to do so.
6. The Permittee shall have at the location of the fire, at least one adult, along with firefighting equipment in serviceable condition, as follows: Garden hose or other water source to extinguish the fire as required.
7. A penalty may be issued at the discretion of the Fire Chief when any or all of the following conditions apply:
 - a. An alarm is activated;
 - b. Emergency manpower and emergency equipment is dispatched;
 - c. Damage occurs to life or property;
 - d. The Owner and/or Tenant is not in possession of a valid Permit.
8. Any person setting, maintaining or allowing to burn a fire and all Owners of property upon which a fire is set, maintained or allowed to burn in the open air shall:
 - a. be responsible for any damages to property occasioned by said fire; and
 - b. be liable for the cost of any firefighting equipment and personnel necessary to extinguish said fire, including aid from neighboring departments, together with applicable penalties as set out in Section 3.2 of By-law 2023-25
9. Penalties may be issued as follows:
 - a. First call – A minimum penalty as per the Municipality's User Fees and Charges By-law. When costs of resources and manpower exceed the minimum penalty the Fire Chief, at their discretion, may add an additional penalty based on a formula of the Ministry of Transportation of Ontario ("MTO") hourly rate times each Fire Department unit dispatched per hour. Any special equipment needed, not limited to Ministry of Natural Resources, other Fire Departments, or third party contractors, etc., will be billed at cost plus an additional amount 15 % cost to cover up to \$5000.00 and 10% on any extraordinary expense exceeding \$5000.00 to cover administrative expenses in accordance with the Township's User Fees and Charges By-Law.
 - b. Subsequent calls – Penalties for subsequent calls will be invoiced to cover costs incurred by the Fire Department, including personnel and equipment called in to extinguish the said fire, based on a formula of the MTO hourly rate times each Fire Department unit dispatched per hour. Any special equipment needed, not limited to Ministry of Natural Resources, other Fire Departments, or third party

contractors, etc., will be billed at cost plus an additional amount 15 % cost to cover up to \$5000.00 and 10% on any extraordinary expense exceeding \$5000.00 to cover administrative expenses in accordance with the Township's User Fees and Charges By-Law.

10. Any unpaid arrears outstanding will be forwarded to the Municipality's Finance Department for collections, as per the Accounts Receivable Collections Policy.

11. All slash and land-clearing debris shall be in piles or wind rows at least 3 m (10') apart.

12. Burning Brush Piles is prohibited 30 minutes before sunset until 30 minutes after sunrise any day, unless by special permission. This does not apply to a Campfire.

If you have any questions, please call Fire Department Administration at 705-932-2765.

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Signature of Owner

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Signature of Approver: