

# The Corporation of the Township of Springwater

## By-Law No. 2019-068

Being a By-law to regulate the setting of open air fires, including the establishing the times during which open fires may be set and to repeal By-law No. 2006-041, as amended

### (Open Air Burning By-law)

**Whereas** Section 7.1 (1), of the Fire Protection and Prevention Act, S.O. 1997, Chapter 4 provides that a council of a municipality may pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

**And Whereas** the Council deems it necessary to repeal and replace By-law No. 2006-041 as amended with respect to the regulating of Open Air Burning in the Township of Springwater;

**And Whereas** Section 130 of the Municipal Act, 2001, S.O. 2001, c25, as amended (the "Act") permits a municipality to regulate matters for the purposes related to the health, safety, and well-being of the inhabitants of the municipality;

**And Whereas** Section 391 of the Act provides that By-laws may be passed by Councils of local Municipalities to impose User Fees;

**And Whereas** Section 429 of the Act provides that a municipality may establish a system of fines for offences under a by-law;

**And Whereas** Section 23.1 of the Act permits Council to delegate its powers and duties, including the power to hold hearings and make decisions;

**And Whereas** Section 23.2 of the Act permits Council to delegate its quasi-judicial powers under the Act to individuals appointed by Council;

**Now Therefore** the Council of The Corporation of the Township of Springwater enacts as follows:

### 1. Definitions

For the purpose of this by-law:

- 1.1. **Agricultural Waste:** means but is not limited to any animal fecal deposits, manure or animal carcasses;
- 1.2. **"Applicant":** means a person who applied for a permit and includes any person authorized by a property owner to apply for a permit on the property owner's behalf.

- 1.3. **Barbecue:** means but is not limited to a CSA or ULC certified portable appliance or grill intended for cooking over an open air fire;
- 1.4. **Fire Permit:** means a valid permit issued by the Springwater Fire and Emergency Services authorizing an Open Air Fire;
- 1.5. **Clean Wood Products:** means untreated, not painted, uncontaminated wood;
- 1.6. **Combustible Waste:** means but is not limited to used vehicle bodies, tires, construction waste, painted or treated lumber, oil, grease, paint, cloth, rags, plastics, kitchen waste, food scraps, or other material which contents include the aforementioned;
- 1.7. **Council:** means the Council of The Corporation of the Township of Springwater;
- 1.8. **Fire Chief:** means a person appointed by Council under the Fire Protection and Prevention Act or designate;
- 1.9. **Open Burn/Open Air Fire:** means a fire larger than .75 meters in diameter by .75 metres in height and no larger than 2 metres in diameter and 2 metres in height;
- 1.10. **Outdoor Solid Fuel Burning Appliance:** means an appliance, portable or fixed in place, constructed of non-combustible material, that contains a chamber located within the firebox of the appliance used to contain a combustible flame, a stack to control the flow of air or combustion gases from the appliance, a spark arrestor located at the end of the stack to control disbursement of sparks, and is enclosed on all sides;
- 1.11. **Out of Control Fires:** means a fire that requires the Fire Department to respond to extinguish or control, or a fire that may meet the other requirements of the Bylaw, but in the opinion of the Fire Chief's designate the responsible party does not have adequate means to extinguish the fire
- 1.12. **Person:** means an individual human being, association, firm, partnership, private club, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to whom to context may apply according to law;
- 1.13. **Property Owner:** means the registered individual/s or entity in possession of title for the land, building or other property.
- 1.14. **Recreational Fire:** means a fire no larger than .75 metres in diameter by .75 metres in height;

- 1.15. **Sunrise:** means the sunrise as per the Environment Canada Website standard times of solar rise/set for Toronto area.
- 1.16. **Sunset:** means the sunset as per the Environment Canada Website standard times of solar rise/set for Toronto area.
- 1.17. **Supervise:** means to be outdoors in close proximity to the fire and in constant visual contact of the fire until fully extinguished.
- 1.18. **Township:** means The Corporation of the Township of Springwater;
- 1.19. **Yard Waste:** means but is not limited to leaves, brush, grass and vegetation clippings, pine needles, peat moss, garden plants, weeds, hay, straw and other material which contents include the aforementioned.

## **2. Requirements for a Fire Permit**

### **2.1. Requirements for fire permit**

No Person shall set a fire, or permit a fire to burn without a permit issued by the Township of Springwater, in accordance with the provisions outlined in Schedule “B” – Open Air Burning Regulations and Open Air Burn – Restricted Areas which is updated frequently and can be found on the Township’s website.

### **2.2. Application for Fire Permit**

Only the property owner or its authorized agent shall apply for a fire permit. The agent must have written permission from the property owner to apply for a Fire Permit.

### **2.3. Expiry Date**

A Fire Permit obtained under this By-law is valid from the time of issuance to December 31<sup>st</sup> of the same year.

### **2.4. Jurisdiction**

This By-law and its provisions are deemed to apply to everyone, including individuals engaged in farming and all lands within the municipality where farming is carried on.

### **2.5. Prior to issuance of a Fire Permit, the owner of the property or authorized agent shall:**

- a) When required, pay the fire permit fees, as applicable and set out in Schedule “A” attached hereto and forming part of this By-law; and

- b) Sign an open burning agreement as provided by the Fire Chief.

### **3. Information Required for Issuance of a Fire Permit**

Any Person may apply in writing to the Fire Chief for a Fire Permit to authorize the setting and burning of a fire within the Township, in accordance with the provisions of this By-law.

#### **3.1. Information**

Any person obtaining a Fire Permit shall provide the following information at the time of applying for the permit, on a form prescribed by the Fire Chief, or designate:

- a) Name of property owner;
- b) Written permission from the property owner if the applicant is not the property owner;
- c) The municipal address where the fire is to be set, including the emergency number or street name and house number;
- d) Telephone number for immediate contact;
- e) Signature of applicant.

#### **3.2. A Fire Permit shall not be issued**

No person or corporation shall apply for a Fire Permit unless the emergency number or street number is posted and clearly visible from the road.

- 3.3 Open Air Permits shall not be issued to those living in restricted areas, a list of which can be found on the Township's website. Only recreational fire permits shall be authorized.

### **4. Responsibilities of all Persons in the Township**

- 4.1. All Persons setting open fires in the Township are subject to the conditions as set out in Schedule "B" attached hereto and forming part of this By-law;
- 4.2. All persons setting open fires in the Township shall inform themselves of the fire rating to determine whether a fire ban is in effect.
- 4.3. Ensuring that this By-law is complied with is the responsibility of the property owner, applicant and any persons responsible for the fire. Where this By-law or a condition of a Fire Permit is not complied with, the

property owner, applicant and any person may be convicted and subject to fines pursuant to the Schedule "C" and the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

- 4.4. Where this By-law or a condition of a Fire Permit is not complied with, any Person may be convicted and subject to fines pursuant the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

## **5. Refusal of Fire Permit**

### **5.1. Refusal of Fire Permit**

The Fire Chief may refuse to issue a Fire Permit to any applicant who, in the Fire Chief's opinion, should not be permitted a Fire Permit for the following reasons:

- 5.1.1. Because of past non-compliance with the requirements of this By-law; or
- 5.1.2. Because of failure to comply with the requirements of this By-law, or
- 5.1.3. Because of failure to comply with other applicable By-laws of the Township or of any local board thereof, or
- 5.1.4. Because of failure to comply with any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, or Board of Commission thereof, or
- 5.1.5. Because in the opinion of the Fire Chief, it is not the in the interest of public safety to issue a permit.

### **5.2. Notice of Refusal**

In the event that a fire application is refused, the Applicant shall be advised verbally or by electronic means in the case of an online permit application.

### **5.3. Fire Chief's Decision is Final**

Fire Chief's decision to issue, refuse to issue, revoke, or suspend a permit shall be final and not subject to further review.

## **6. Revocation or Suspension**

### **6.1. Suspension or Revocation for Breach of Terms**

The Fire Chief may suspend or revoke a Fire Permit of any person who, in the Fire Chief's opinion:

- 6.1.1. Has failed to comply with the requirements of this By-law, or
- 6.1.2. Has failed to comply with other applicable By-laws of the Township or of any local board thereof, or
- 6.1.3. Has failed to comply with any statute, order-in-council, or regulation of the Provincial Legislature or the Parliament of Canada or of any Agency, or Board of Commission thereof.

**6.2. Notice of Impending Suspension or Revocation**

Prior to the suspension or revocation of the Fire Permit, the Fire Chief shall give Notice in writing to the property owner by registered mail or personal delivery. Notice shall be deemed effective three (3) days after mailing or immediately upon personal delivery.

**6.3. Fire Permit to be returned upon Suspension or Revocation**

Upon suspension or revocation of a Fire Permit, the property owner shall:

- 6.3.1. Return all Fire Permits issued with reference to such Fire Permit, and
- 6.3.2. Permit any Officer to enter the premises, or other property for the purpose of receiving or taking the Fire Permits, and
- 6.3.3. In no way hinder, prevent or obstruct the Fire Chief from carrying out his/her duties.

**6.4. Offence to continue burning when permit is Suspended or Revoked**

No Person shall engage in, or continue to conduct, or permit any Person to engage in or continue to conduct, Open Air Burning where a Fire Permit is required under this By-law while such Fire Permit is suspended or revoked under the provisions of this By-law.

**6.5. No refund of fees when permit is Suspended or Revoked**

A suspended or revoked Fire Permit results in the surrender of all fees.

**7. Exemptions**

No permit shall be required for and the provisions of this by-law shall not apply to:

- 7.1. A fire wholly contained in a Barbecue used for the preparation of food for human consumption; or
- 7.2. An Outdoor Solid Fuel Burning Appliance that is being used for the purposes of heating a residence or business.

## **8. Enforcement and Penalties**

### **8.1. Fire Chief to Administer**

This By-law shall be administered by the Fire Chief of the Township or such other person or persons as Council may appoint by By-law.

### **8.2. Inspection**

The Fire Chief, and without limiting the generality thereof may include the Fire Chief, Municipal Law Enforcement Officer, Police Officer or any agent, servant or employee of such servants as designated by Council, may at any time, inspect or cause to be inspected the premise, for which a fire permit is required pursuant to this By-law.

### **8.3. Authority to Institute Fire Ban**

The Fire Chief may institute a fire ban at any time as may be deemed necessary for safety reasons or to protect the natural environment. No

Person shall set an Open Air or Recreational Fire at any time during a fire ban. At such time as a fire ban is in effect, no person may set off fireworks or use a flying lantern.

### **8.4. Municipal Law Enforcement Officer to Enforce**

This By-law shall be enforced by the Fire Chief, Municipal Law Enforcement Officer, Police Officer and all such persons shall be considered inspectors under the terms of this By-law.

8.5. The Fire Chief or designate, By-law Officer or Police Officer is authorized to enforce the provisions of this By-law pursuant to the Provincial Offences Act R.S.O. 1990, c.P.33, as amended.

8.6. Every 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 for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended. The fees/fines found in Schedule "C" Fine Guideline are the responsibility of the property owner. Every person who contravenes or fails to comply with any provision of this By-law is guilty of an offence.

### **8.7. Presentation of Fire Permit**

A copy of the Fire Permit shall be presented by the property owner or authorized agent upon the request of the Fire Chief, Municipal Law Enforcement Officer or Police Officer.

## **9. Fees Schedule**

### **9.1. Fire Fees**

Fire Permit Fees are hereby established for certain services provided by the Springwater Fire and Emergency Services Department as set out on Schedule “A” attached hereto and forming part of this By-law (hereinafter “Fees”).

## **10. Miscellaneous**

### **10.1. Severability**

If any court of competent jurisdiction finds that any of the provisions of this By-law are ultra vires the jurisdiction of Council, or are invalid for any reason, such provisions shall be deemed to be severable and shall not invalidate any of the other provisions of the By-law which shall remain in full force and effect.

### **10.2. Number and Gender**

Where the context permits, words importing the singular member of or the masculine gender, also includes more than one persons, parties or things of the same kind than one and female as well as male.

### **10.3. Interpretation of May and Shall**

For the purposes of this By-law, “may” shall be construed as permissive and “shall” shall be construed as imperative.

### **10.4. Applicable Legislation**

If any provisions of this by-law are inconsistent with the Fire Protection and Prevention Act, Ontario Fire Code, the Forest Fire Prevention Act, Environmental Act or any other Federal or Provincial Act or regulation, the provisions of the applicable Act shall apply.

### **10.5. Title and Scope**

This By-law may be cited as the “Open Air Burning By-law”.

### **10.6.**

This by-law shall apply to all land within the geographical limits of the Township of Springwater and the setting of fires in the open air on any such land.

**11. Repeal**

11.1. That By-law No. 2006-041, 2017-044 and any other by-law inconsistent with this by-law are hereby repealed.

**12. Force and Effect**

12.1. That this By-law shall take force and effect upon final passage thereof.

**Read a first, second and third time and finally passed this 4th day of September, 2019.**

**The Corporation of the Township of Springwater**

**Original Signed by**

\_\_\_\_\_

Mayor

**Original Signed by**

\_\_\_\_\_

Clerk

**Note: Please see current Fees and Charges By-law for current fees.**

**The Corporation of the Township of Springwater**

**By-Law No. 2019-068: Open Air Burning**

**Schedule "A"**

~~Open Air Burning User Fees~~

**Open Burning Permit Fees:**

Permit	User Fee
Recreational Fire	<del>\$15</del>
Open Burning Permit	<del>\$15</del>
Open Burning Permit as a result of clear cutting.	<del>\$200 per ½ hectare or part thereof.</del>
Open Burning Permit for the purpose of lot clearing.	<del>\$100 per ¼ hectare or part thereof.</del>

## **The Corporation of the Township of Springwater**

### **By-Law No. 2019-068: Open Air Burning**

#### **Schedule “B”**

#### **Open Air Burning Regulations**

##### **Open Air Burn Fires:**

1. An Open Air Burn Fire Permit shall only be issued to the property owner or authorized agent.
2. An Open Air Burn Permit shall not be issued to those living in the areas identified on the Township’s website.
3. Open Air Burning must occur between Sunrise and Sunset only.
4. Must not exceed 2 cubic metres (2m L x 2m W x 2m H) in size;.
5. A valid Open Air Burn Fire Permit must be issued by the Fire Chief prior to igniting the fire.
6. A telephone number where the property owner can be reached must be provided.
7. A responsible party 18 years of age or older must be in attendance with the Open Air Burn at all times and shall supervise the burn until it is completely extinguished.
8. The responsible party of the Open Air Burn shall be equipped with sufficient water or tools to contain the fire and must have a means of contacting the Fire and Emergency Services Department in case of an emergency.
9. The Open Air Burn is not permitted during a fire ban, snow, fog or rainy conditions, when an Air Quality Advisory has been posted, and when the wind speed (sustained or gusts) exceeds 20 km/h or the wind direction is changing frequently.
10. Only clean dry brush and clean, untreated and unfinished wood products may be burned.
11. Petroleum products, plastics, rubber, painted or treated lumber, construction waste, agricultural waste or any other material shall not be burned.

12. An area of a minimum of 5m adjacent to the Open Air Burn shall be clear of all buildings, structure, combustible material and combustible waste.
13. Piled material to be burned shall not be more than 2m in diameter and 2m in height.
14. Both the responsible party and property owner are accountable for smoke generated by the open air burn.
15. A copy of the open burn Fire Permit shall be presented upon request.

**Recreational Fires:**

1. A Recreational Fire Permit shall only be issued to the property owner.
2. A Recreational Fire Permit must be obtained from the Fire Chief or designate prior to igniting the fire.
3. A telephone number where the property owner can be reached must be provided.
4. A responsible party 18 years of age or older must be in attendance with the Open Burn at all times and shall supervise the burn until it is completely extinguished.
5. The responsible party shall be equipped with sufficient water or tools to contain the fire and must have a means of contacting the Fire and Emergency Services Department in case of an emergency.
6. Must not exceed .75m in diameter by .75m in height.
7. Only dry firewood may be burned.
8. Petroleum products, rubber, yard waste rubbish, construction waste, agricultural waste, painted or treated lumber, grass, leaves, pine needles or any material that may cause excessive smoke is not permitted to be burned.
9. There must be adequate means to extinguish the fire present and in close proximity to the fire.
10. An area of a minimum distance of 3m adjacent to the Recreational Fire shall be clear of all buildings, structure, combustible material and combustible waste.
11. Recreational Fires shall not be permitted when the wind speeds (sustained or gusts) exceed 20km/h, or the wind direction is changing frequently.

12. Recreational Fires shall be forbidden when a fire ban has been declared by the Fire Chief or the Ministry of Natural Resources and Forestry.
13. Outdoor fire places may be used for Recreational Fires, in a fire safe location. All requirements of Recreational Fires apply to fires in outdoor fire places.
14. The responsible party is accountable for any smoke generated by the Recreational Fire.
15. A copy of the recreational Fire Permit shall be presented upon request.
16. The use of burn barrels is prohibited.

### **All Fires**

No person shall:

1. Set a fire, or permit a fire to burn without a valid Fire Permit;
2. Set a fire, or permit a fire to burn in excess of 2 cubic metres (2m L x 2m W x 2m H) in size, unless a permit is received in accordance with Schedule "A" for clear cutting or lot clearing purposes. Such instances shall be approved by the Fire Chief, or designate. ;
3. Set a fire, or permit a fire to burn so as to decrease the visibility on any roadway;
4. Set a fire, or permit a fire to burn so as to cause danger to any person or structure;
5. Set a fire, or permit a fire to burn anywhere other than the location specified on the Fire Permit;
6. Create an odour by the setting of a fire, or the burning of a fire, which causes discomfort to any person residing in the area;
7. Fail to ensure that no damage is done to any property or injury caused to any person while setting a fire or permitting a fire to burn;
8. Fail to ensure that the fire is attended at all times by a responsible person at least 18 years of age and shall ensure that such person attends to such fire until the fire is completely extinguished;
9. Fail to ensure that sufficient equipment and resources are available at the burn site to properly to control the fire and for ensuring that the fire is completely extinguished;
10. Fail to ensure that the fire is completely extinguished before leaving the burn site.

**The Corporation of the Township of Springwater**

**By-Law No. 2019-068: Open Air Burning**

**Schedule “C”**

**Fines - Part I Provincial Offences Act**

\*To be approved by the Provincial Court

**Fire Chief and/or Fire Department Attendance:**

<b>Item</b>	<b>Offence</b>	<b>Fine</b>
1	Set or permit a fire to burn where no permit issued.	\$200
2	Failure to supervise Open Burning.	\$200
3	In the opinion of the fire officer, failure to have adequate water or tools to contain fire	\$200
4	Burning unauthorized material.	\$300
5	Burning too close to building, structure, vehicle, combustible materials.	\$400
6	Burning contrary to wind speed/direction limits.	\$400
7	Set or permit a fire to burn during Fire Ban.	\$1,000
8	Set off fireworks or flying lanterns during Fire Ban.	\$1,000
9	Set or permit a fire to burn that exceeds established guideline.	\$500
10	Failure to extinguish fire when ordered	\$500
11	Setting or allowing an Out of Control Fire	\$1,000
12	Setting or allowing a fire that in the opinion of the Fire Chief's designate requires the Fire Department to extinguish	Current MTO rates

**NOTE: Schedule “C” shall be approved by the Provincial Courts and is only included as information.**