

BY-LAW NUMBER 14-06

OF

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

A By-Law to Regulate Conditions under which fires may be set in the open Air

Whereas, Section 7.1 (1) of the Fire Protection and Prevention Act, 1997, S.O. 1997, Chapter 4, as amended provides that by-laws may be passed to regulate the setting of open air fires, including establishing the times during which open air fires may be set; and

Whereas, Section 130 of the Municipal Act, 2001, S.O. 2001, chapter 25, as amended provides that municipalities may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality; and

Whereas, in accordance with Section 425 of the Municipal Act, 2001, S.O. 2001, chapter 25, as amended, a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

NOW THEREFORE BE IT RESOLVED, That Council of The Corporation of The Township of Clearview hereby enacts as follows:

1. INTRODUCTION

1.1 Title and Scope

This is a By-law to regulate the setting, prohibiting and controlling of open fires within the Township of Clearview. This By-law shall be known as the **"Open Air Burn By-law"** of the Township of Clearview.

1.2 Repeal of Former By-laws

All previous by-laws passed by the Corporation of the Township of Clearview or passed by a municipality now incorporated into the Corporation of the Township of Clearview regulating fires which may be set in the open air are hereby repealed.

1.3 Validity and Severability

Should any section, sub-section, clause, paragraph, or provision of this By-law be declared by a court of competent jurisdiction to be invalid or enforceable, the same shall not affect the validity or enforceability or any other provision of this By-law or the By-law as a whole.

1.4 Interpretation

Words used in the singular shall have corresponding meanings when used in the plural.

"May" shall be construed as permissive

"Shall" shall be construed as imperative

1.5 Force and Effect

This By-law shall come into force and effect on the date of passage by the Council of the Township of Clearview.

2. DEFINITIONS

"Council" shall mean the Council of the Corporation of The Township of Clearview."

"Fire Ban Period" shall mean a period of time during which the Fire Chief or designate declares a total ban on all burning.

"Fire Chief" shall mean the Fire Chief or designate for the Township of Clearview.

"Fire Department" shall mean the Fire and Emergency Services Department for the Corporation of the Township of Clearview.

"Fire Pit" shall mean an area for an open air fire, not exceeding one metre (3 feet) in diameter which is constructed of and created on non-combustible material containing combustible material not more than 0.5 metres (1.5 feet) in height, equipped with a grill and is being used for cooking food.

"Gas Fueled Outdoor Appliances" shall mean manufactured ULC or CSA gas (natural or propane) appliances including barbeques.

"Lot" shall mean a parcel of land to which title is capable of being legally conveyed subject to the provisions of the Planning Act, R.S.O. 1990, c. P. 13, as amended and includes any of its parts, which are subject to a right-of-way or easement.

"Open Air Fire" shall mean a fire that is not totally enclosed and controlled so as to prevent the spread of fire either directly or by sparks or embers originating from the fire.

"Outdoor Fire Place" shall mean a manufactured (ULC or CSA appliance) non-combustible enclosed container designed to hold a small fire for decorative purposes and may include chimineas.

"Owner" shall mean an assessed owner, tenant, occupant or any person having an interest, whether equitable or legal in the land.

"Person" shall mean any 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 who the context can apply according to this by-law.

"Settlement Area" shall mean a settlement area as defined in Schedule C of this by-law.

"Settlement Permit" shall mean a permit for an outdoor fire place issued by the Township.

"Special Settlement Permit" shall mean a permit authorized by the Fire Chief to allow an open air fire in a settlement area lot for each calendar year.

"Rural Area" shall mean a rural area as defined in Schedule C of this by-law.

"Rural Permit" shall mean a permit for open air burning issued by the Township.

"Township" shall mean the Corporation of the Township of Clearview.

3. OFFENCES

- 3.1 No Owner shall create or permit the creation, presence or existence of any open air fire for the purpose of burning trees, stumps, lumber, furniture, paper, cardboard, grass, leaves or any other material which may create a fire hazard, within the Township.
- 3.2 Section 3.1 does not apply to orchards in active production or abandoned orchards, where controlled burns may be permitted subject to prior approval of the Fire Chief.
- 3.3 Section 3.1 does not apply to an open-air fire for which a Rural Permit has been issued, providing the conditions as set out in the permit are being complied with.

- 3.4 Section 3.1 does not apply to an outdoor fireplace for which a Settlement Permit has been issued providing the conditions as set out in the permit are being complied with.
- 3.5 No owner who has been issued a permit shall create or permit the creation or existence of a fire unless the conditions contained in the Permit are being followed.
- 3.6 Notwithstanding Section 3.1 of this By-law, no Owner shall create or permit the creation, presence or existence of any fire set in the open air for the purpose of burning trees, stumps, lumber, furniture, paper, cardboard, grass, leaves or any other material which may cause a fire hazard within the Township during a fire ban period.
- 3.7 Subject to Section 3.5., Section 3.1 does not apply to open air burning in a fire pit for cooking purposes that has been permitted by the Fire Chief in each calendar year.
- 3.8 A Settlement Permit or Rural Permit may be cancelled or suspended at any time by the Fire Chief or his designate and immediately upon receiving notice of such cancellation or suspension, the permit holder shall extinguish any fire started under the Settlement Permit or Rural Permit.
- 3.9 No owner or person shall create or permit the creation of a fire during a fire ban.
- 3.10 Section 3.1 does not apply when a Special Settlement Permit has been issued by the Fire Chief in each calendar year providing the conditions as set out in the permit are being complied with.

4. ADMINISTRATION

- 4.1 This By-law shall be administered by the Fire Chief of the Township or such other person or persons as Council may, by by-law appoint and all such persons shall be considered inspectors under the terms of this By-law.
- 4.2 This By-law shall be enforced by the Fire Chief or Municipal Law Enforcement Officer(s) or such other person or persons as the Council may by by-law appoint and all such persons shall be considered inspectors under the terms of this By-law.

4.3 An inspector under this by-law:

- a) Has the power to enter upon and examine any yards, vacant lots, or grounds at any reasonable time or times; and
- b) May be accompanied by such other person or persons, as they deem necessary to properly carry out their duties under this by-law.

4.4 Settlement Permits and Rural Permits may be issued throughout Clearview Township under the conditions listed in Schedule A of this By-law.

5. PENALTY

5.1 Every person who:

- a) hinders, disturbs or obstructs any Inspector in carrying out their duties under this By-law; or
- b) Contravenes any provision of this By-law

Is guilty of an offence and upon conviction, is subject to a penalty as provided under the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

6. ADDITIONAL REMEDY

Every person, persons or corporation who contravenes the provisions of this By-law and which necessitates the services of the Clearview Fire Department may be billed for service at the current rates published by the Ministry of Transportation.

7. CONTINUING OFFENCE

Each day that a situation as described in Section 3 of this By-law is allowed to continue shall constitute a separate offence under this By-law. Any Judge or Justice of the Peace adjudicating on such matter may assess a separate fine for each and every day that such situation has been allowed to continue.

8. CORPORATIONS

Every person and an officer, director, employee or agent of a Corporation charged with committing an offence under this By-law is a party to the offence who:

- a) Actually commits it; or
- b) Does or omits to do anything for the purposes of aiding any person to commit it; or
- c) Abets any person in committing it. Where two or more persons form an intention in common to carry out an unlawful purpose, and to assist each other therein, each of those who knew or ought to have known that the commission of an offence under this By-law would be probable consequence of carrying out the common purpose is a party to the offence.

9. SCHEDULES

That Schedules A-1, A-2, B, C and D form part of this by-law.

10. EFFECTIVE DATE

The By-law shall come into full force and take effect on the date of passage.

By-Law Number 14-06 read a first, second and third time and finally passed this 13th day of January, 2014.


MAYOR
CLERK

SCHEDULE A-1

RURAL FIRE PERMIT

A Rural Permit issued pursuant to Section 3.3 of this by-law shall comply with the following conditions:

- No pile of material shall be larger than 1 metre in diameter and 1 metre in height (1 cubic metre) unless authorized by the Fire Chief.
- This permit must be signed by or authorized (in writing) by the owner of the property. Under the Ontario Fire Code an Owner "means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property."
- The person named in the permit, or their agent shall be in attendance at all times the fire is burning, and shall remain on scene until the fire is completely extinguished.
- No fire shall be started before 6:00 A.M. and shall be extinguished no later than 1:00 A.M.
- No fire shall be started within 30 metres (100 feet) of any building.
- No person shall set or maintain a fire unless the necessary tools and/or water to extinguish the same is within four (4) metres of the location of the fire.
- The fire permit holder shall be responsible for any damage to property or injury to persons occasioned by the said fire; and be liable for costs incurred by the Fire Department (current Ministry of Transportation rates), including personnel, equipment and apparatus necessary and called in to extinguish said fire.
- The material to be burned shall be limited to wood.
- No open-air fire shall be maintained when the wind is in such a direction or intensity or exceeding twenty-five (25) kilometres an hour or to cause any of the following:
 - a) A decrease in visibility on any highway or roadway; and
 - b) A rapid spread of fire through grass or a brush area
- Open air burning shall not be permitted when raining or smog advisory has been issued.
- Shall not cause a nuisance through smoke that affects the lawful enjoyment of other person's property or causes an adverse health effects.
- This permit is valid only on the property listed on the application.
- This permit must be retained at the site of any Open Air Fire and produced upon request.
- Should any fire get out of hand and it is necessary to call for the services of the Clearview Township Fire Department, charges will be levied against the permit holder at the current rates published by the Ministry of Transportation.
- This permit is not valid for materials transported into Clearview Township.
- Use of the permit constitutes acceptance of the conditions.
- The permit is not valid during a Fire Ban Period. It is the responsibility of the permit holder to ensure no Fire Ban is in effect.

SCHEDULE A-2

SETTLEMENT FIRE PERMIT

A Settlement Permit issued pursuant to Section 3.4 of this by-law shall comply with the following conditions:

- No person shall set or maintain a fire unless it is enclosed in an outdoor fire place as defined in this by-law.
- This permit must be signed by or authorized (in writing) by the owner of the property. Under the Ontario Fire Code, an Owner "means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property."
- The person named in the permit, or their agent shall be in attendance at all times the fire is burning, and shall remain on scene until the fire is completely extinguished.
- No fire shall be started before 6:00 A.M. and shall be extinguished no later than 1:00 A.M.
- No outdoor fire place shall be located within 4 metres of any building, structure, tent/trailer, fence, overhead wire or lot line and shall be restricted to the rear yard only.
- Outdoor fire places must be located on a non combustible surface extending beyond the unit to a dimension equal to the height of the unit or unless ULC/CSA rating and the manufacturers guidelines are followed.
- The material to be burned shall be limited to wood or by-products of wood.
- No person shall set or maintain a fire unless the necessary tools and/or water to extinguish the same is within four (4) metres of the location of the fire.
- The fire permit holder shall be responsible for any damage to property or injury to persons occasioned by the said fire; and be liable for costs incurred by the Fire Department (current Ministry of Transportation rates), including personnel, equipment and apparatus necessary and called in to extinguish said fire.
- No outdoor fire place shall be maintained when the wind is in such a direction or intensity or exceeding twenty-five (25) kilometres an hour or to cause any of the following:
 - a) A decrease in visibility on any highway or roadway; and
 - b) A rapid spread of fire through grass or a brush area
- Shall not cause a nuisance through smoke that affects the lawful enjoyment of other person's property or causes an adverse health effects.
- Outdoor fireplace shall not be permitted when raining or smog advisory has been issued.
- This permit is valid only for the property listed on the application.
- This permit must be retained at the site of any outdoor fire place permit and produced upon request.
- Should any fire get out of hand and it is necessary to call for the services of the Clearview Township Fire Department, charges will be levied against the permit holder at the current rates published by the Ministry of Transportation.
- Use of the permit constitutes acceptance of the conditions.
- The permit is not valid during a Fire Ban Period. It is the responsibility of the permit holder to ensure no Fire Ban is in effect.

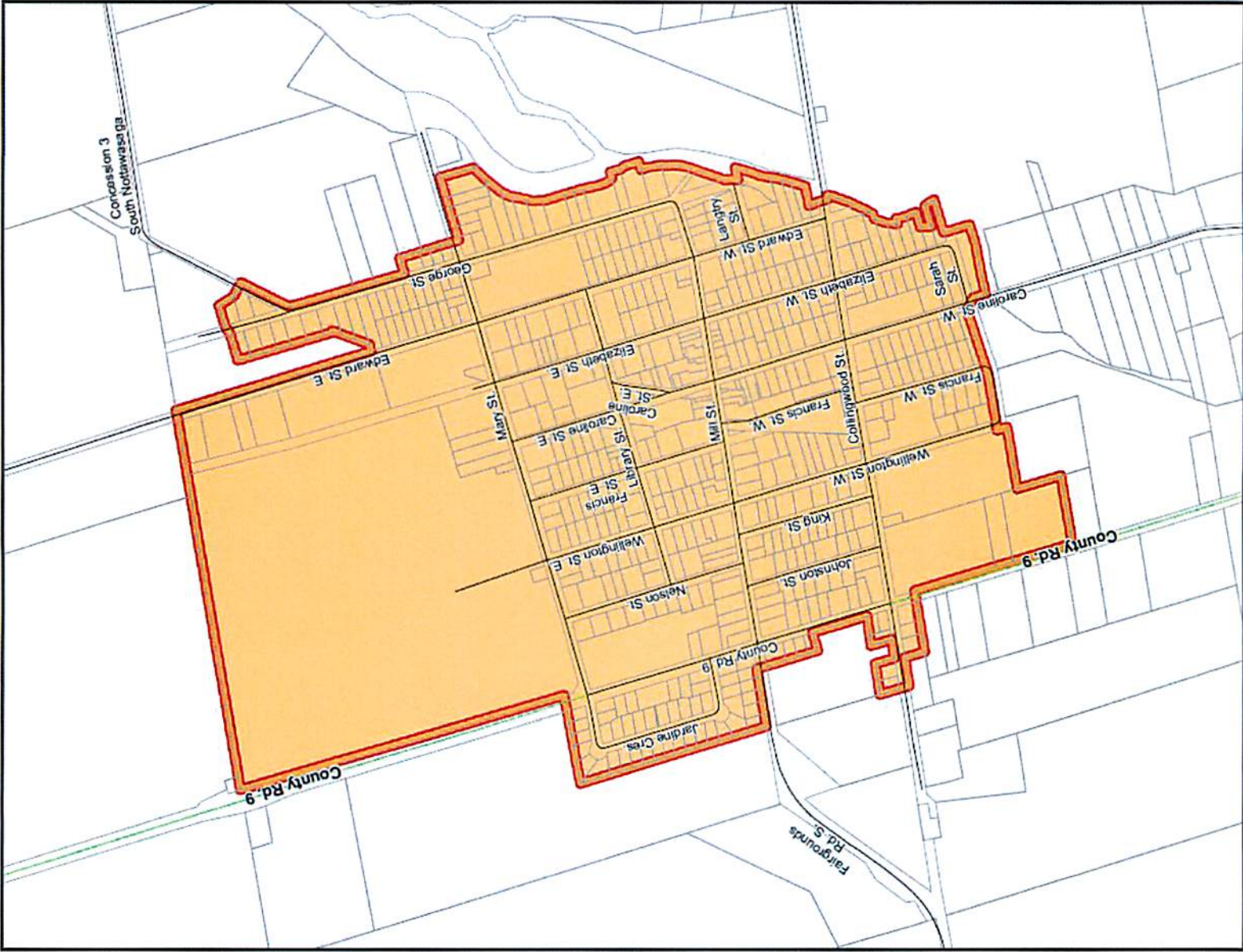
SCHEDULE B

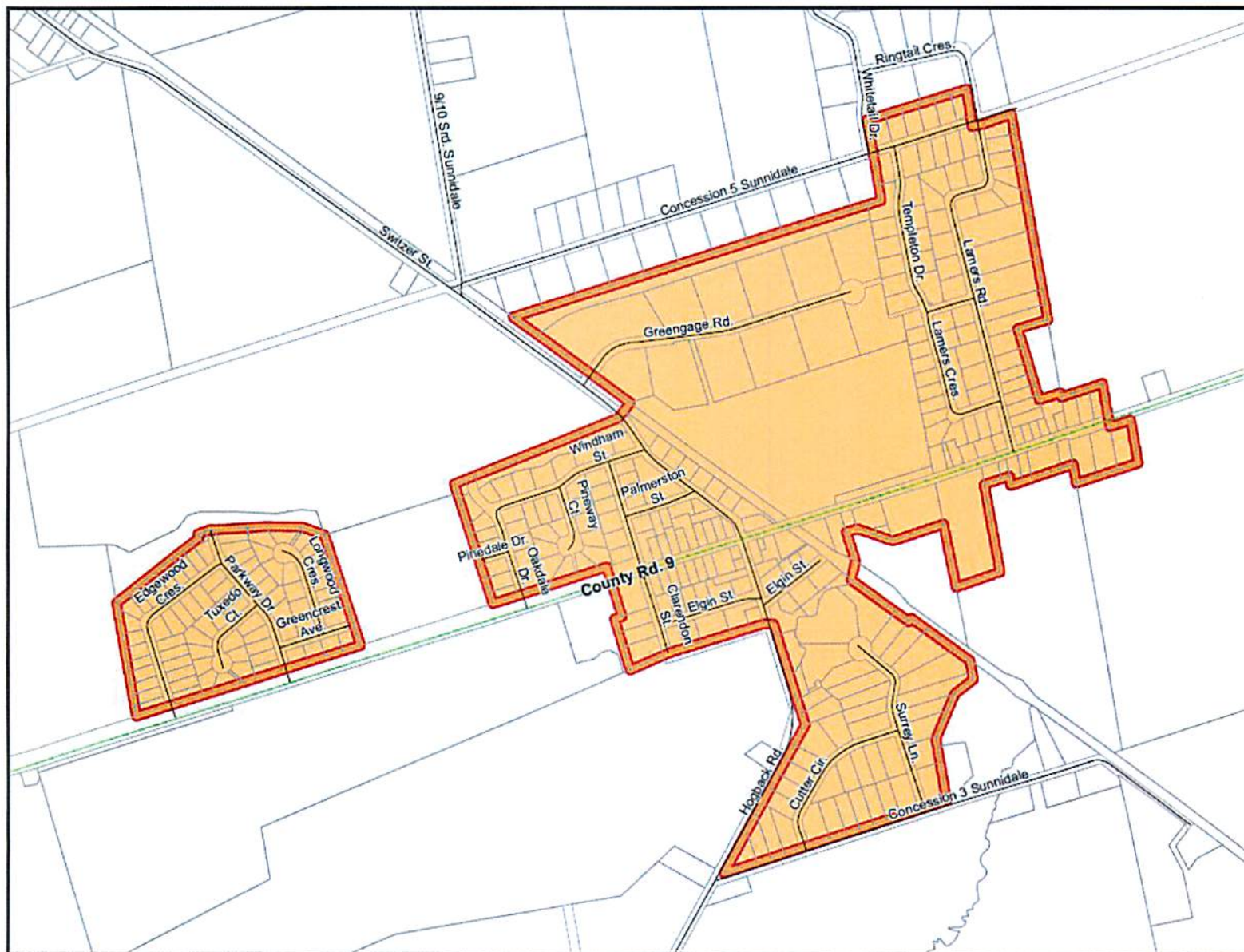
BY-LAW NO. 14 – 06

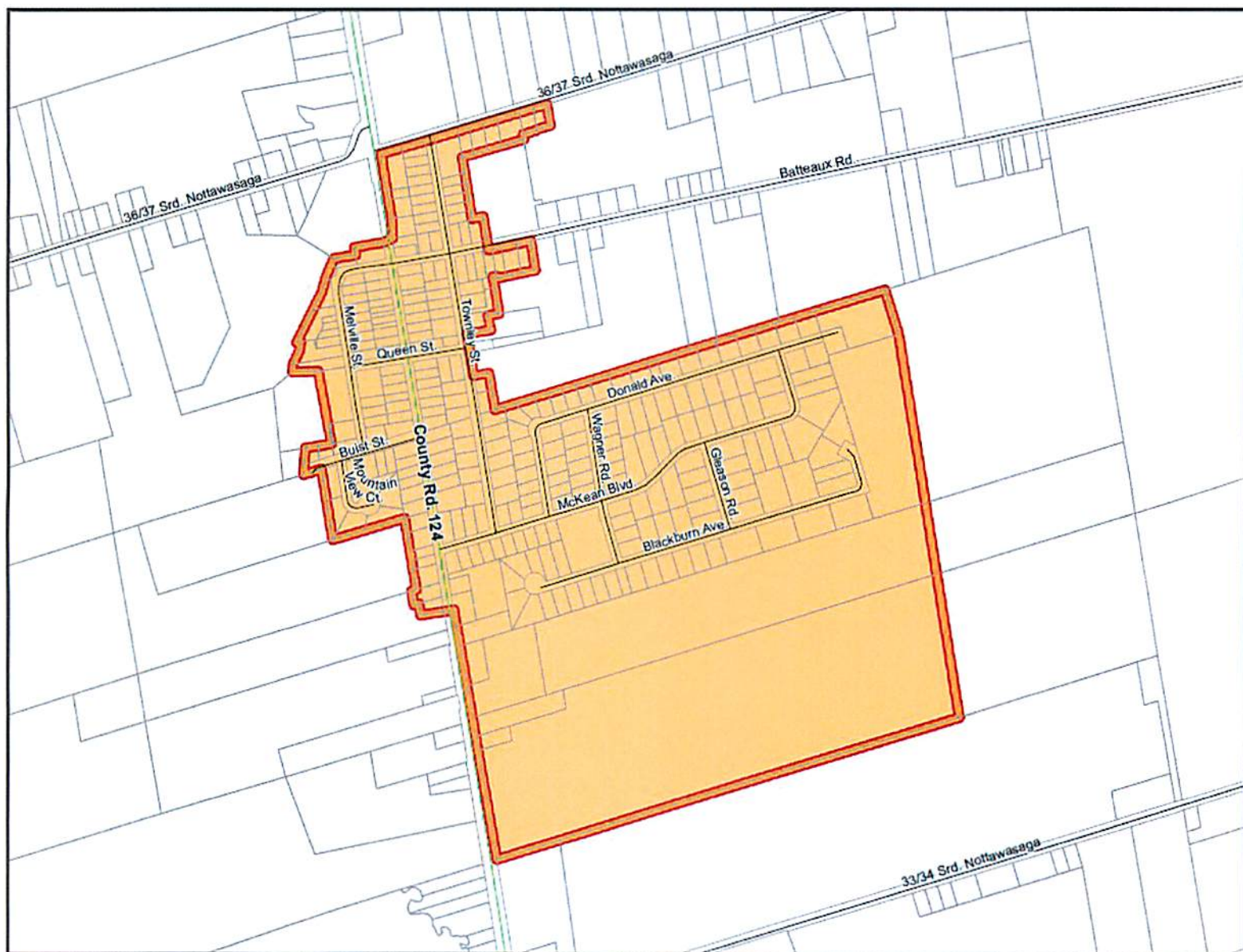
BEING A BY-LAW TO REGULATE CONDITIONS UNDER WHICH FIRES MAY BE SET IN THE
OPEN AIR

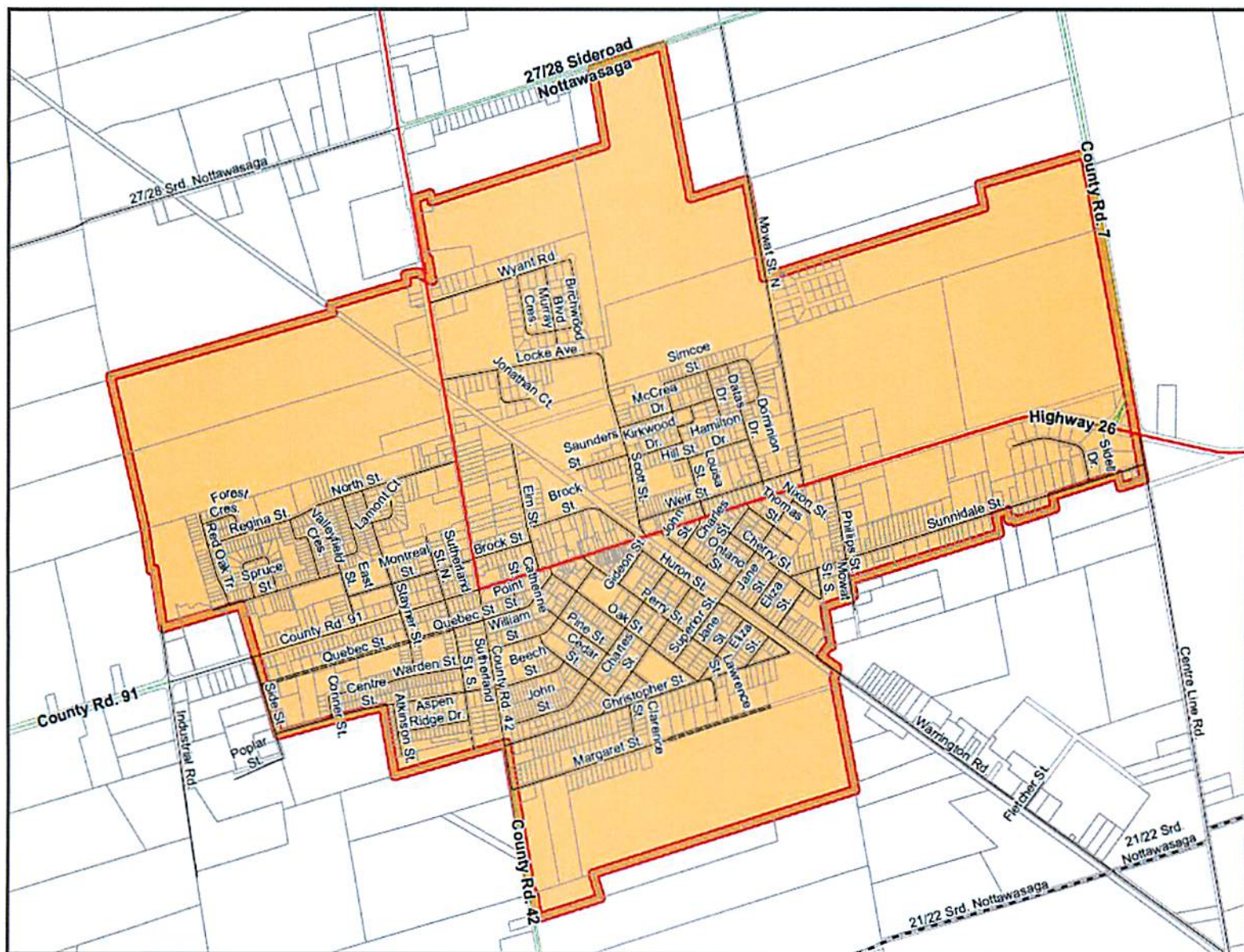
<u>ITEM</u>	<u>COLUMN 1</u>	<u>COLUMN 2</u>
	Description of Offence	Provision Creating or Defining Offence
1	Owner create or permit creation of open air fire \$100.00	Section 3.1
2	Owner create or permit creation of Fire contrary to conditions of permit \$100.00	Section 3.3 to Section 3.4
3	Owner create or permit creation of fire During fire ban period \$200.00	Section 3.9
4	(Hinder)(disturb)(obstruct) Inspector Carrying out duties \$100.00	Section 5.1

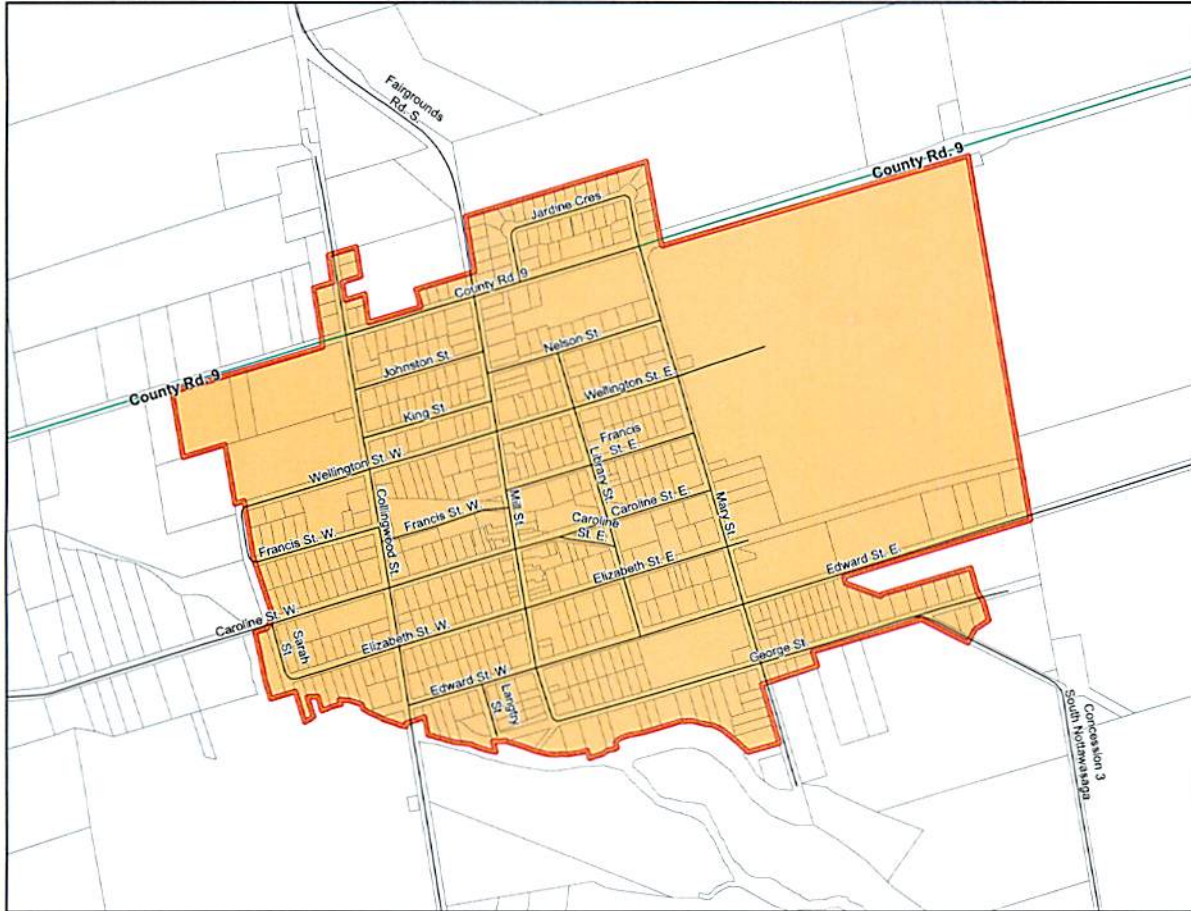
SCHEDULE C – MAPPING











Settlement Fire Permit Areas

Adopted 2014

Schedule B1 - Creemore

Mapbook - Page 1 of 4

- Provincial Highway
- County Road
- Local Road
- Local - Seasonal
- Private Road
- Unassumed Road
- Unopened Road
- 911 Water Access
- Parcel Fabric
- Settlement Fire Permit Areas

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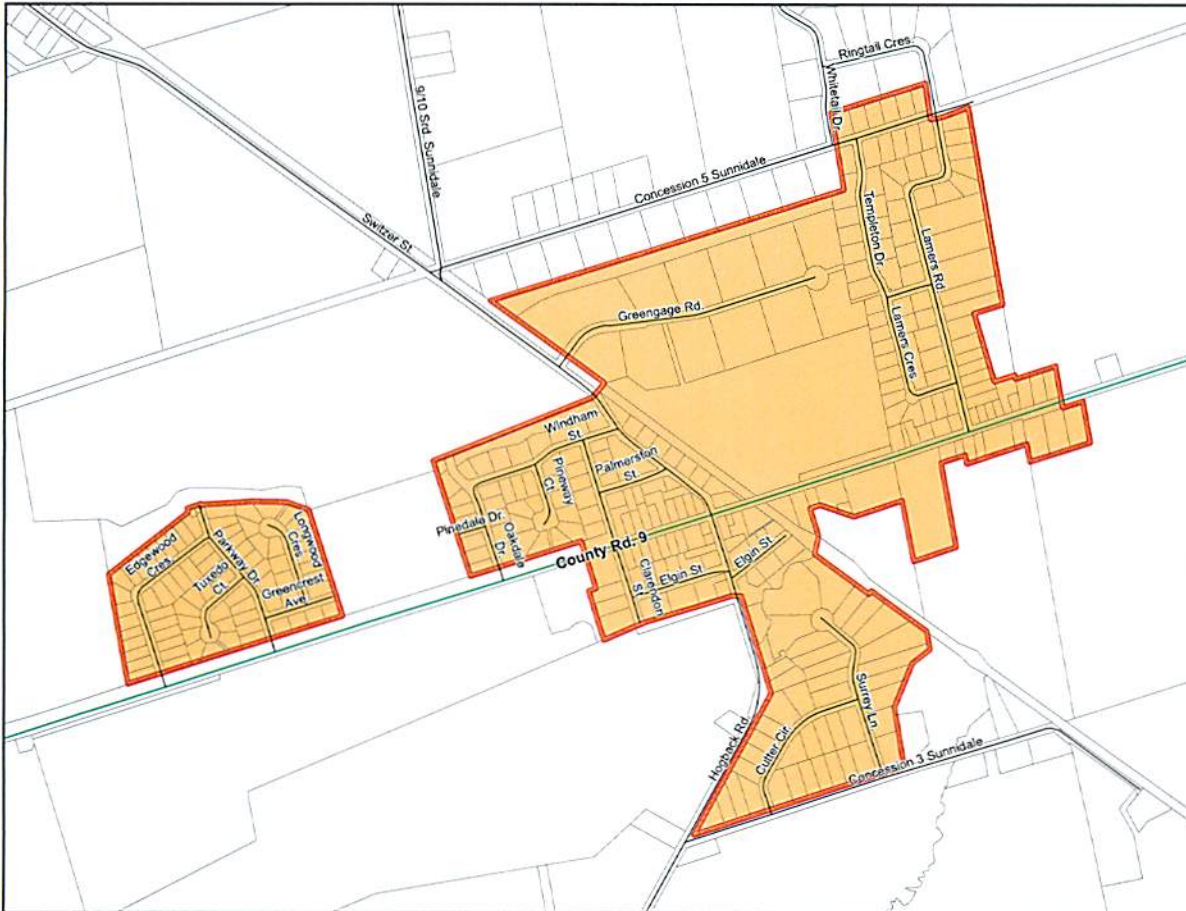
CLEARVIEW TOWNSHIP
Established 1994

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LINC
Local Infrastructure Network of Clearview

Please refer to the website for more information on the Township of Clearview. For more information on the Township of Clearview, please visit the website at www.clearview.on.ca. For more information on the Township of Clearview, please visit the website at www.clearview.on.ca. For more information on the Township of Clearview, please visit the website at www.clearview.on.ca.



Settlement Fire Permit Areas

Adopted 2014

Schedule B2 - New Lowell

Mapbook - Page 2 of 4

- Provincial Highway
- County Road
- Local Road
- Local - Seasonal
- Private Road
- Unassumed Road
- Unopened Road
- 911 Water Access
- Parcel Fabric
- Settlement Fire Permit Areas

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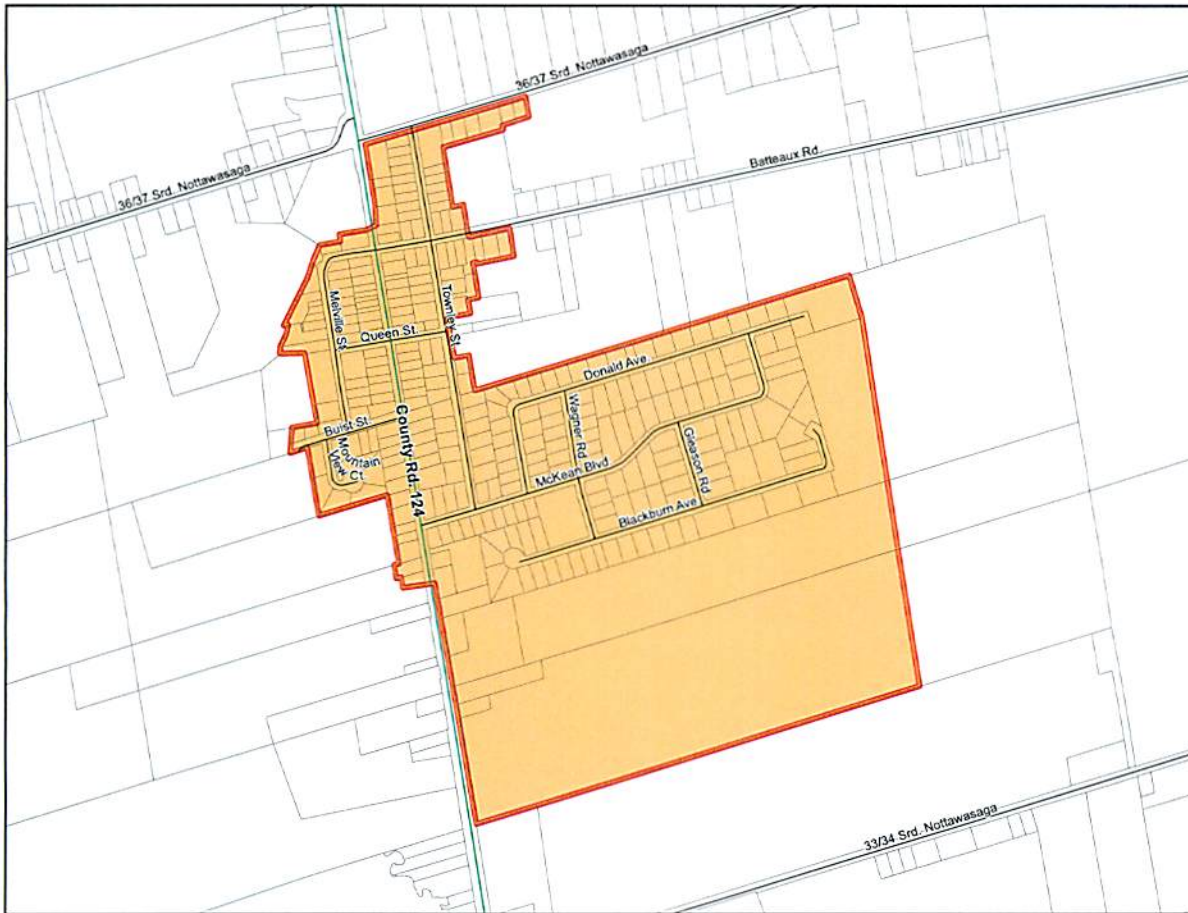


CLEARVIEW TOWNSHIP
Incorporated 1999

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Settlement Fire Permit Areas

Adopted 2014

Schedule B3 - Nottawasaga

Mapbook - Page 3 of 4

- Provincial Highway
- County Road
- Local Road
- Local - Seasonal
- Private Road
- Unassumed Road
- Unopened Road
- 911 Water Access
- Parcel Fabric
- Settlement Fire Permit Areas

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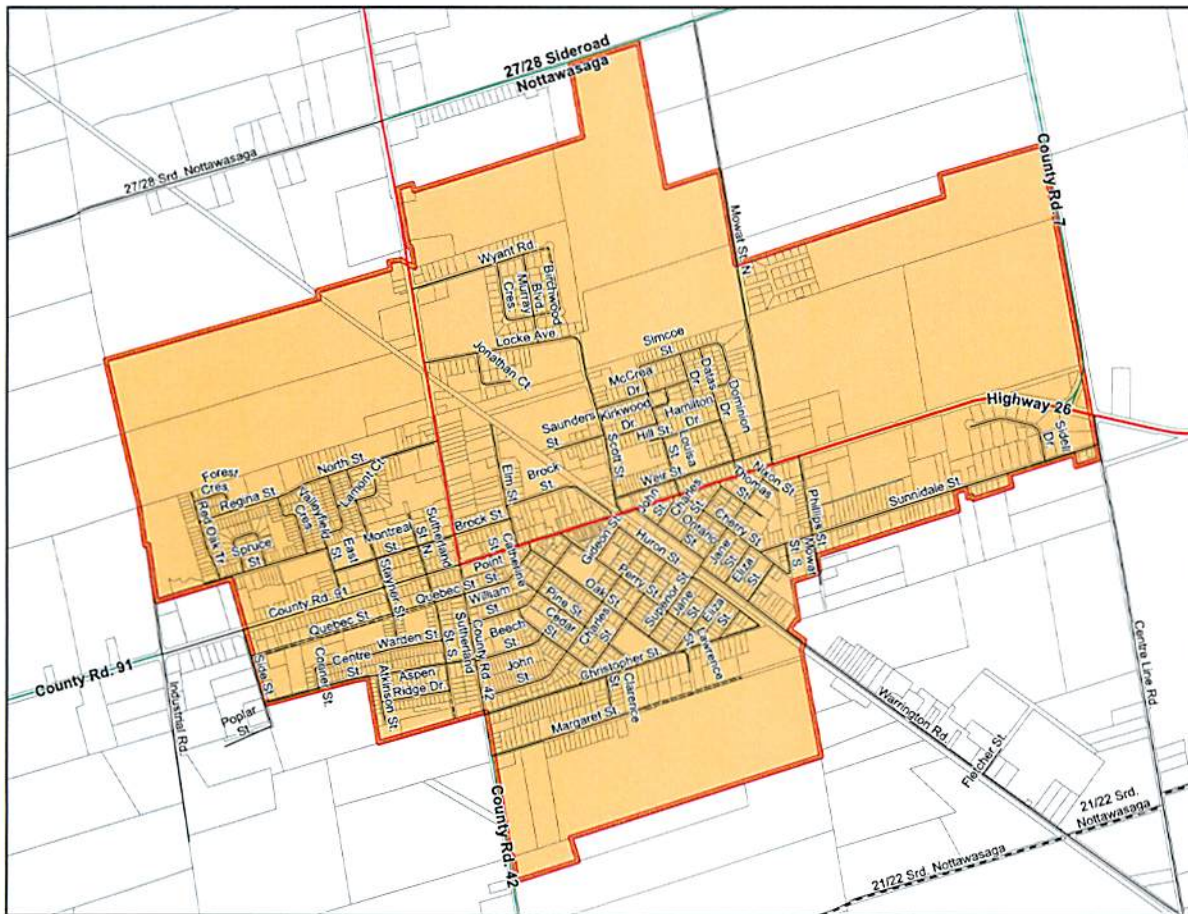
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Settlement Fire Permit Areas

Adopted 2014

Schedule B4 - Stayner

Mapbook - Page 4 of 4

- Provincial Highway
- County Road
- Local Road
- Local - Seasonal
- Private Road
- Unassumed Road
- Unopened Road
- 911 Water Access
- Parcel Fabric
- Settlement Fire Permit Areas

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CLEARVIEW TOWNSHIP
Incorporated 1996

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LINC
Land Information Council of Ontario

This map is intended to be used in conjunction with the Township of Clearview's Land Information Council of Ontario (LINC) 3612. It is not intended to be used for a specific purpose, and the Township of Clearview disclaims any responsibility for content, accuracy, and/or any damages. It is not a plan of record.

SCHEDULE D – FEES

OPEN BURNING PERMIT FEES

Rural and Settlement Open Burning Permit	\$10.00
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FIRE CHIEF AND/OR FIRE DEPARTMENT ATTENDANCE

- | | | |
|----|---|----------|
| 1. | Response to Open Air Fires | |
| | a) Per apparatus for first hour or part thereof | \$410.00 |
| | b) Per apparatus for each succeeding ½ hour or part thereof | \$175.00 |
| 2. | For Attendance at fire during a fire ban | \$175.00 |

THE HONOURABLE SIMON ARMSTRONG
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
CENTRAL EAST REGION

50 EAGLE STREET WEST
NEWMARKET, ONTARIO L3Y 6B1



L'HONORABLE SIMON ARMSTRONG
JUGE PRINCIPAL RÉGIONAL
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU CENTRE-EST

50, RUE EAGLE OUEST
NEWMARKET (ONTARIO) L3Y 6B1

TELEPHONE/TÉLÉPHONE (905) 853-4890
FAX/TÉLÉCOPIEUR (905) 853-4891

March 11, 2014

RECEIVED MAR 27 2014

Ms. P. Fettes
Director, Legislative Services/Clerk
The Corporation of the Township of Clearview
217 Gideon Street
P.O. Box 200
Stayner, Ontario
L0M 1S0

Dear Ms. Fettes,

Re: Set Fines – Part I
The Corporation of the Township of Clearview

Enclosed herewith please find copies of the Orders and copies of the Schedules of set fines for the By-law No. 14-06.

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

I have forwarded copies of the Orders and the Schedules of the set fines to the POA Court in Barrie, together with certified copies of the By-laws.

Yours truly,

A handwritten signature in blue ink that reads "S. Armstrong".

Simon Armstrong
Regional Senior Justice
Central East Region

/bmw
Enclosures

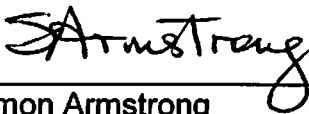
PROVINCIAL OFFENCES ACT

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 attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 14-06, for the Corporation of the Township of Clearview, attached hereto is the set fine for those offences.

This Order is to take effect March 11, 2014.

DATED at Newmarket this 11th
day of March, 2014.



Simon Armstrong
Regional Senior Justice
Central East Region

SCHEDULE B

THE CORPORATION OF THE TOWNSHIP OF CLEAVIEW
BY-LAW NO. 14 -06
BEING A BY-LAW TO REGULATE CONDITIONS UNDER WHICH FIRES MAY BE SET IN
THE OPEN AIR
Part 1 Provincial Offences Act

Item	<u>COLUMN 1</u> Short Form Wording	<u>COLUMN 2</u> Provision Creating or Defining Offence	<u>COLUMN 3</u> Set Fine
1	Owner create or permit creation of open air fire	3.1	\$100.00
2	Owner create or permit creation of Fire contrary to conditions of rural permit	3.3	\$100.00
3	Owner create or permit creation of Fire contrary to conditions of settlement permit	3.4	\$100.00
4	Owner create or permit creation of fire during fire ban period	3.9	\$200.00
5	(Hinder)(disturb)(obstruct) Inspector carrying out duties	5.1	\$100.00

Note: the general penalty provision for the offences listed above is section 61 of the Provincial Offences Act, R.S.O. 1990, c.P. 33