

BYLAW NO. 2018-003
of the Wawayseecappo First Nation
A Bylaw for the Prevention of
Open Air Burning Material

WHEREAS the Council of Waywayseecappo First Nation desires to make a Bylaw governing the prevention of Open Air Burning Material, with respect to any matter arising out of or ancillary to the exercise of powers under section 81 of the *Indian Act*, R.S.C. c. I-5, and for the imposition of a penalty for a violation thereof;

WHEREAS the Council of Waywayseecappo First Nation is empowered to make such Bylaw pursuant to paragraphs 81(1)(d), (q) and (r) of the *Indian Act*;

AND WHEREAS it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Waywayseecappo First Nation Indian Reserve to provide for the prevention of Open Air Burning on the reserve;

NOW THEREFORE the Council of Waywayseecappo First Nation hereby makes the following Bylaw:

Short Title

- 1.1 This Bylaw shall be cited as the "Waywayseecappo First Nation Prevention of Open Air Burning Bylaw".
- 1.2 This Bylaw repeals all previous bylaws regarding Open Air Burning on Waywayseecappo Reserve Lands.

Interpretation

2. In this Bylaw:

"*Chief Fire Official*" means the Fire Chief of the Waywayseecappo First Nation or such employees of the Waywayseecappo First Nation who have been designated by the Fire Chief for the purpose of this Bylaw;

"*Council*" means the Chief and Council of the Waywayseecappo First Nation;

"*Fire*" means the burning or combustion of materials in the open air, but shall not include any fire entirely contained in an apparatus designed, constructed or manufactured for the purpose of barbecuing food for consumption.

"*Permit*" means a permit issued by the Fire Chief Official pursuant to the provision of this Bylaw in the form attached as Schedule "A" hereto;

"*Person*" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association.

"*Prohibited Material*" shall include industrial materials, such as automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics, shingles, dry wall, insulation, painted or treated wood and other materials whose contents include any of the above, and shall include animal husbandry refuse, such as animal fecal deposits or manure and animal carcasses and shall include domestic waste such as food scraps, cloth, rags, clothing and household plastics and shall include flammable or combustible or accelerates;

"*Day Light Hours*" means the time period beginning one half hour before sunrise and ending one half hour after sunset;

"*Recreational Fire*" means a fire which burns within an area that is no greater than 0.6 metres (approx.2 feet) in length by 0.6 metres (approx. 2 feet) in width by 0.6 metres (approx. 2 feet) in height, provided such fire is used for entertainment purposes, which may include cooking food;

"*Outdoor Fire Place*" shall include, but not be limited to, a steel box with screened in opening, clay fire pots, ceramic fire pots and acorn stoves. For the purpose of this bylaw

"Outdoor fire Places" shall be considered Open Air Burning;

"*Reserve*" means the Waywayseecappo Indian Reserves and any other reserve lands under the authority of Council.

Prevention of Open Air Burning Material

3. No person shall set a fire or allow a fire to burn except in accordance with the provisions of this Bylaw and all applicable Federal laws and regulations.
4. No person shall set a fire or allow a fire to burn except in accordance with the following provisions:
 - (a) no person shall set a fire unless it is contained in a manner that will control the spread of fire;
 - (b) no person shall set or maintain a fire involving prohibited materials;
 - (c) no person shall set or maintain a fire unless it is under constant watch and control from the time of ignition until it is completely extinguished;
 - (d) no person shall set or maintain a fire that burns within an area greater than 1.2 metres (approx. 4 feet) in length by 1.2 metres (approx. 4 feet) in width by 1.2 metres (approx. 4 feet) in height;
 - (e) no person shall set or maintain a recreational fire after 1:00 a.m.
 - (f) no person shall set or maintain a fire to burn, with the exception of a recreational fire, without obtaining a permit from the Chief Fire Official;
 - (g) no person shall set or maintain a fire to burn, at a distance of less than 7 metres (22.96 feet) from any building, structure, hedge, trees, fence or a combustible material of any kind;
 - (h) no person shall set or maintain a fire on any land or premises without the consent of the owner of such land or premises; and
 - (i) no person shall set or maintain a fire when the direction or intensity of the wind may cause any of the following:
 - (i) impaired or reduced visibility on any vehicular roadway;
 - (ii) excessive smoke odour of a degree or quality that may cause discomfort to persons in the immediate area of the fire; and
 - (iii) the spread of fire or transfer of products of combustion to other materials, and or premise.

5. Notwithstanding section 4(e) and section 8, a person who is actively involved in the farming of land, who wishes to set or maintain a fire for the purpose of disposal of vegetation of farm lands that is normal and incidental to farming purposes shall be issued a permit to cover the period of the proposed fire.
6. The Chief Fire Official shall be entitled to revoke or deny issuance of any permit for fires that in his/her opinion, would create a hazard of any type.
7. The provisions of this bylaw shall apply to all lands within the territory of the Waywayseecappo First Nation.
8. Any person who sets or maintains a fire without a permit, and any person that sets or maintains a fire that requires the response of the Waywayseecappo Fire Department or any other Fire Department to control the fire, shall be liable for all the expenses incurred by the Waywayseecappo Fire Department or other Fire Department(s), but not limited to, personnel, equipment, and apparatus costs.
9. No one permit shall be issued for a period exceeding three calendar days.

Burning Without a Permit

10. This regulation does not apply to:
 - (a) The burning of secured, dry garden refuse or brush, grass, weeds, cuttings and like materials resulting from the cleaning of gardens and lots may be burned in open air in small fires at times designated and advertised by the Fire Prevention Officer.
 - (b) Small confined fires used for cooking food in grills and barbecues;
 - (c) Necessary burning authorized by Band Administration.

Liability of Person in Charge of Fire

11. A person is liable for any expenses, damages or loss by the Waywayseecappo First Nation for fighting and extinguishing a fire that he or she has started, or a fire under his or her supervision.

Penalty

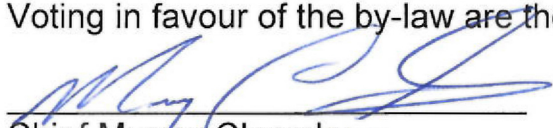
12. Every person who contravenes any provisions of this bylaw is guilty of an offence and liable upon summary conviction to a fine not exceeding one thousand dollars (\$1000.00) or imprisonment of a term not exceeding thirty days, or both fine and imprisonment.

Coming Into Force

13. This Bylaw shall come into force upon it being first published pursuant to subsection 86(1) of the *Indian Act*.
14. All previous By-Laws regulating open air burning are hereby revoked and are of no force or effect.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Waywayseecappo First Nation this 6th day of September, 2018.

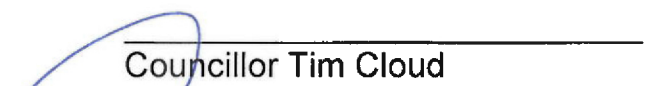
Voting in favour of the by-law are the following members of the Council:



Chief Murray Clearsky



Councillor Chantel Wilson



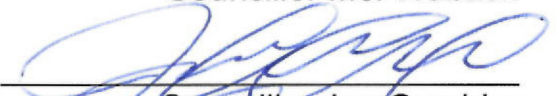
Councillor Tim Cloud




Councillor Travis Cloud



Councillor Mel Wabash



Councillor Joe Gambler



Councillor Anthony Longclaws

being the majority of those members of the Band Council of the Waywayseecappo First Nation present at the aforesaid meeting of the council.

The quorum of the Band Council is three members.

Number of members of the Band Council present at the meeting: