

THE CORPORATION OF THE TOWNSHIP OF ADJALA-TOSORONTIO

BY-LAW 12-12

A BY-LAW TO REGULATE THE SETTING OF OPEN AIR FIRES AND TO PREVENT THE SPREAD OF FIRES IN THE TOWNSHIP OF ADJALA-TOSORONTIO

FIRE CONTROL BY-LAW

WHEREAS the Ontario Fire Code, Ontario Regulation 388/97 provides that open air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue;

AND WHEREAS the Fire Prevention and Protection Act, 1997, S.O. 1997, c.4, as amended, provides in subsection 7.1(1) that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of spreading of fires and regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS the Fire Prevention and Protection Act, 1997, S.O. 1997, c.4, as amended, provides in subsection 7.1(4) that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND WHEREAS the Fire Prevention and Protection Act, 1997, S.O. 1997, c.4, as amended, provides in subsection 7.1(3) that a municipality may deal with different areas of the municipality differently;

AND WHEREAS the Council of the Corporation of the Township of Adjala – Tosorontio deems it necessary and expedient to pass such a by-law;

NOW THEREFORE the Council of the Corporation of the Township of Adjala – Tosorontio hereby enacts as follows:

1. TITLE

This By-law shall be cited as the “Fire Control By-law” and shall apply to the entire Municipality.

2. DEFINITIONS

2.1 **Agricultural Waste** shall be deemed to be animal fecal deposits or manure and animal carcasses.

2.2 **Approved** shall mean approved by the Chief Fire Official.

2.3 **Chief Fire Official** shall mean the Chief of the Fire Department of the Municipality of Adjala-Tosorontio.

2.4 **Domestic Waste** shall be deemed to include kitchen waste, food scraps, cloths, rags, clothing, plastics and any other materials whose contents include any of the aforementioned.

2.5 **Dwelling** shall mean house.

2.6 **Industrial Waste** shall be deemed to include used automobile and truck bodies, oil, grease, paint, cloth, rags, plastics or other materials whose contents include and of the aforementioned.

2.7 **Nuisance** shall mean excessive smoke, smell, airborne sparks or embers that is likely to disturb others.

- 2.8 **Open Air** shall mean any open place, yard, field or construction area which is not enclosed by a building or structure.
- 2.9 **Owner** shall mean the registered owner of the land on which open air burning occurs, or the trustee acting on behalf of the registered owner, or the trustee acting on behalf of the estate of the registered owner, or a person with a leasehold interest in the land, and shall also include any "Applicant" and/or "Property Owner" as defined in the *Fire and Emergency Services Fees and Charges By-law, 11-41*, as amended.
- 2.10 **Outdoor Fire Container** shall mean a commercially manufactured or non commercially manufactured, non combustible, enclosed container that is not fueled by natural gas or propane and may include but is not limited to chimineas, metal drums or tubs.
- 2.11 **Responsible Person** shall mean a person who is capable of making sound decisions.
- 2.12 **Small Confined Fire** shall mean a fire no larger than 3 square feet in area with flames no higher than one and half (1.5) feet from base of fire.
- 2.13 **Township** shall mean the Corporation of the Township of Adjala-Tosorontio.
- 2.14 **Yard Waste** includes but is not limited to grass, leaves, trees, brush, trimmings, spent flowers, garden plants, weeds, pine needles, hay, straw and sawdust.

3. **REQUIREMENT FOR PERMIT**

- 3.1 No person(s) or owner(s) of land shall set a fire or permit the setting of a fire without first having obtained a burn permit from the Chief Fire Official or designate.
- 3.2 Only the property owner or agent shall apply for a fire permit. The agent must have written permission from the property owner to apply for a fire permit.
- 3.3 The permit shall expire at end of each calendar year.
- 3.4 Notwithstanding any other provision of this By-law, the Chief Fire Official may permit an open air fire:
- a) for the purpose of training or testing fire equipment;
 - b) by the Township or any of its officials, employees, contractors or agents or any other persons for whom the Township is liable at law who are carrying out any operations of the Township, operating, maintaining or installing municipally-owned infrastructure and/or facilities; or
 - c) for any extraordinary reason as deemed expedient by the Chief Fire Official.

4. BURN TYPES AND CONDITIONS

4.1 Outdoor Fire Containers - Burn permit required

Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burn authorized under this section shall comply with the following specific conditions:

- a) shall only burn clean, dry seasoned wood or yard waste.
- b) shall ensure fire is no larger than three (3) square feet in area with flames no higher than one and half (1.5) feet from the base of the fire.
- c) shall keep the fire at least twenty-five (25) feet from any dwelling and a minimum of ten (10) feet from any structure, hedge, tree, fence, vehicular roadway or overhead wire.
- d) shall ensure that the general conditions set out in Section 5 have also been met.

4.2 Small Confined Fires – Burn permit required

Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burn authorized under this section shall comply with the following specific conditions:

- a) shall only burn clean, dry seasoned wood or yard waste.
- b) shall not set a fire that is larger than three (3) square feet in area with flames no higher than one and half (1.5) feet from the base of the fire,
- c) shall ensure that the fire is not set within forty-five (45) feet of a dwelling and a minimum of ten (10) feet from any structure, hedge, tree, fence, vehicular roadway or overhead wire.
- d) shall ensure that the general conditions set out in Section 5 have also been met.

4.3 Medium Sized Fires – Burn permit required

Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burn authorized under this section shall comply with the following specific conditions:

- a) shall only burn clean, dry seasoned wood or yard waste.
- b) shall not set a fire that is larger than nine (9) square feet in area with flames no higher than three (3) feet from the base of the fire.
- c) shall ensure that the fire is not within ninety (90) feet of a dwelling and a minimum of twenty (20) feet from any structure, hedge, tree, fence, vehicular roadway or overhead wire.
- d) shall ensure that the general conditions set out in Section 5 have also been met.

4.4 Large Sized Fires – Burn permit required

Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burn authorized under this section shall comply with the following specific conditions:

- a) shall only burn untreated wood, grass, leaves, trees, brush, trimmings, weeds, pine needles, hay, straw and sawdust.
- b) shall not set a fire that is larger than thirty-six (36) square feet in area with flames no higher than six (6) feet from the base of the fire.
- c) shall not set the fire within three hundred (300) feet of a dwelling and a minimum of ninety (90) feet from any other structure, hedge, tree, fence, vehicular roadway or overhead wire.
- d) shall ensure that the general conditions set out in Section 5 have also been met.
- e) shall not set fire during the night hours between dusk and dawn.

4.5 Extra Large Sized Fires – Burn permit and inspection required

Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burn authorized under this section shall comply with the following specific conditions:

- a) shall only burn untreated wood, grass, leaves, trees, brush, trimmings, weeds, pine needles, hay, straw and sawdust.
- b) shall obtain an inspection by the fire department prior to setting for any burn pile that is larger than thirty-six (36) square feet in area and four (4) feet in height.
- c) shall not set fire within three hundred (300) feet of a dwelling and a minimum of ninety (90) feet from any other structure, hedge, tree, fence, vehicular roadway or overhead wire.
- d) shall ensure that the general conditions set out in Section 5 have also been met.
- e) shall not set fire during the night hours between dusk and dawn.

5. GENERAL CONDITIONS OF ALL OPEN AIR BURNING

Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burn authorized under any section of this by-law shall also comply with the following general conditions:

- 5.1 Ensure that they have read and understand the provisions of this By-law and if the person setting the fire is not the owner of the land, the owner shall ensure that the person setting the fire or is responsible for the fire has read and understands the provisions of this By-law.
- 5.2 Be responsible for any damage to property or injury to persons affected by the fire.
- 5.3 Ensure that no more than one fire is lit at any one time.
- 5.4 Ensure sufficient equipment and resources are available at the burn site to extinguish the fire at any time.
- 5.5 Not set a fire under hazardous conditions of any kind.

- 5.6 Have a responsible person present at the burn site at all times and until the fire is completely extinguished.
- 5.7 Not set fire on any street, lane or public property.
- 5.8 Not set fire when rain or fog is present.
- 5.9 Not set fire when wind is in such a direction or of such intensity so as to reduce the visibility on any roadway, cause danger to any person or structure or cause a nuisance.
- 5.10 Ensure that Industrial waste, agricultural waste, domestic waste, petroleum products, rubber, painted lumber, mixed demolition debris or anything else that will cause excessive smoke or fumes is not burnt.
- 5.11 Not set fire when smog alerts have been issued for Simcoe County.
- 5.12 Ensure that the burn complies with the provisions of the *Environmental Protection Act*, R.S.O. 1990, and c.E.19, as amended.
- 5.13 Not set fire during a burn ban within the Township.
- 5.14 Ensure that the fire does not in any way cause discomfort, danger, irritation, hazard or nuisance for other residents of the Township.

6. FEES

- 6.1 The fee for a permit issued under this By-law shall be in accordance with the Township *Fire & Emergency Services Fees and Charges By-law, 11-41*, as amended.
- 6.2 Should the Fire Department attend to extinguish an open air fire that is not being carried out in accordance with the provisions of this By-law, any person being found responsible for setting the fire or in the alternative, the owner or person (s) with care, custody and control of the land on which the fire was lit shall be responsible for any damage to property or injury to persons occasioned by said open air fire and shall be liable to pay any fees together with costs including, but not limited to, personnel, equipment and apparatus necessary and called into extinguish said open air fire, as may be set out in the Township *Fire & Emergency Services Fees and Charges By-law, 11-41*, as amended.

7. OFFENCES AND ENFORCEMENT

- 7.1 The Chief Fire Official shall be responsible for the administration and enforcement of this By-law.
- 7.2 Any person who contravenes the provisions of this By-law is guilty of an offence and upon conviction shall be liable to the penalties imposed pursuant to the Fire Protection Act, 1997, S.O. 1997, c 4, as amended for each offence, exclusive of costs.
- 7.3 A permit may be revoked by the Chief Fire Official or designate if the permit holder fails to comply with the requirements of the permit and any other provision of this By-law.

7.4 The Chief Fire Official or designate may, at any reasonable time, enter and inspect any land or premises to determine whether the provisions of this By-law or any direction or order made there under is being complied with.

7.5 An owner shall permit an officer to inspect any land, property or premises for the purposes of determining compliance with this By-law.

7.6 The Chief Fire Official or designate may be accompanied by a person under his or her direction.

7.7 The Chief Fire Official or designate may order a fire to be extinguished immediately if the fire:

- a) Is not set in compliance with this By-law; or
- b) Is determined upon inspection by the Chief Fire Official or designates to constitute a safety hazard or concern.

8. REPEAL

THAT By-law 05-44 is hereby repealed.

9. EFFECTIVE DATE

THAT this By-law shall come into force and effect on the final passing thereof.

10. SEVERABILITY

Should any section, paragraph, clause or provision of this By-law be held by a court or competent jurisdiction to be invalid, the same shall not affect the validity of the remainder of the By-law.

11. THAT, notwithstanding anything contrary to the rules of procedure, this By-law be introduced and read a first and second time and be considered read a third time and finally passed this 2nd day of April, 2012



MAYOR TOM WALSH



CLERK BARBARA KANE