

**THE CORPORATION OF THE TOWNSHIP OF  
NORTH KAWARTHA  
BY-LAW # 46/12**

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**BEING A BY-LAW OF THE CORPORATION OF THE TOWNSHIP OF NORTH  
KAWARTHA TO REGULATE THE SETTING OF OPEN AIR FIRES AND TO  
REPEAL BY-LAW # 24/11**

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**WHEREAS** Section 391(1) of the Municipal Act S.O., 2001, Chapter c.25 provides that the Council of a Municipality may pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it;

**AND WHEREAS** the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, s.7.1 (1) (a) provides that a Council of a Municipality may pass By-laws regulating fire prevention, including the prevention of the spreading of fires;

**AND WHEREAS** the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, s.7.1. (1) (b) 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 of the Corporation of the Township of North Kawartha deems it necessary and prudent to set out laws governing open air fires to protect persons and property within the limits and boundaries of the municipality from open air fires that may become out of control;

**NOW THEREFORE** the Council of the Corporation of the Township of North Kawartha hereby enacts as follows:

**SECTION 1: DEFINITIONS**

1.1 For the purpose of this By-Law:

**ADVERSE EFFECT** - means one or more of,

- i) Impairment of the quality of the natural environment for any use that can be made of it,
- ii) Injury or damage to property or to plant or animal life,
- iii) Harm or material discomfort to any person,
- iv) An adverse effect on the health of any person,
- v) Impairment of the safety of any person,
- vi) Rendering any property or plant or animal life unfit for human use,
- vii) Loss of enjoyment of normal use of property, and
- viii) Interference with the normal conduct of business;

**APPROVED BRUSH PILE FIRE** - shall mean an Open Air Fire, having a maximum fuel size of 1 meter x 1 meter x 1 meter in height (3.3 feet x 3.3 feet x 3.3 feet), that is set and maintained for the sole purpose of burning cut piled wood, or brush.

**APPROVED INCINERATOR FIRE** - shall mean a fire set in a container designed for Incineration purposes and shall conform to the NFPA 82 standard "Incinerators and Waste Linen Handling Systems and Equipment". This does *not* include a barrel.

**APPROVED PIT** - shall mean an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15 cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the limit of the fuel used for a Camping Fire.

**BURN BAN** – shall mean absolutely no "Open Air Burning" including "Campfires" or "Cooking Fires" or charcoal barbecues, but does not include the use of propane or naphtha gas cooking equipment which is equipped with a shutoff mechanism.

**BUILDING** - shall mean any structure composed of walls and a roof or any part or combination thereof which is used as shelter, accommodation, enclosure or storage containing humans, animals, equipment, goods or materials or a structural system housing any of the above.

**CAMPFIRE** - shall mean a "Fire", having a maximum fuel volume of 0.6 meter x 0.6 meter x 0.6 meter height. (2 feet x 2 feet x 2 feet), that is set and maintained solely for the purposes of cooking food, providing warmth or recreational enjoyment and where;

- i) The site of the fire is bare rock or other non-combustible material.
- ii) The fire is at least 3 meters (9.9 feet) from any flammable material.
- iii) The space above the fire is at least 3 meters (9.9 feet) from vegetation.
- iv) The flame length does not exceed 1 meter (3.3 feet) in height and 1 meter (3.3 feet) in diameter.

**CAMPGROUND, TRAILER PARK, RESORT FIRE PERMIT** – shall be for the purpose of a blanket permit for all campfires at a trailer park, resort, or campground. The issuance of a permit will require an inspection by the Fire Chief or designate and a detailed diagram of the grounds showing each campfire site.

**CONTRACTOR FIRE** - shall mean an Open Air Fire, having a maximum fuel size of 3 meter x 3 meter x 1.8 meter in height (10 feet x 10 feet x 6 feet), that is set and maintained for the sole purpose of burning cut piled wood or brush, the disposal of certain paper based refuse or non-toxic building materials

**COOKING FIRE** – Shall mean a small contained fire, no greater than 12 inches (30 centimeters) in diameter and used to cook food on a grill. the fire shall be in a pit or a permanent structure designed and intended for the cooking of food on a grill.

**COUNCIL** shall mean the members of Council so elected in and for the Corporation of the Township of North Kawartha.

**DANGEROUS CONDITION** - means:

- i) A lack of precipitation which, in the opinion of the Fire Chief or his/her designate, increases the risk of the spread of fire; or
- ii) Winds which in the opinion of the Fire Chief or his/her designate increases the risk of spread of fire; or
- iii) The issuance, by the Fire Chief, Fire Marshall, or other fire officials in the exercise of their statutory powers, of a fire ban or prohibition against any and all "Open Air Fires"; or
- iv) Any other condition declared by the Fire Chief or his/her designate to be a dangerous condition from time to time, which increases the risk of the spread of fire;

**EXTINGUISH** – Put out or quenched completely with no smoke, hot or glowing embers remaining

**FIRE** - shall mean any fire set out in open air for the purpose of burning, cut piled brush, the disposal of certain paper based refuse or non-toxic building materials or campfire, but shall **not** include:

- a) fires emanating from blow torches, cutting or welding torches, paving equipment or other such apparatus as associated with a service or occupation and shall be referenced to the Forest Fire Prevention Act, Ontario Regulation 207/96.
- b) Small confined fires used for the purpose of cooking which is supervised at all times by a competent person and shall include a grill or barbecue and shall be referenced to the Forest Fire Prevention Act, Ontario Regulation 207/96.

**FIRE CHIEF** - shall mean the Chief of the North Kawartha Fire Department, or his/her designate.

**HOUSEHOLD WASTE** - for the purposes of this by-law means combustible material such as plastics, polyethylene terephalate (PET), paints, oils, solvents, rubber, insulation, batteries, acids, polystyrenes (styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fabrics, diapers, hazardous wastes and other materials as defined in the Environmental Protection Act and all other similar and like materials but shall not include untreated wood and wood fiber products such as unlaminated paper and cardboard and boxboard and brush.

**MINISTRY OF NATURAL RESOURCES FIRE SEASON** - shall be the period between the 1<sup>st</sup> day of April through to the 31<sup>st</sup> day of October or as so amended by the Ministry of Natural Resources under the Forest Fire Protection Act, R.S.O. 1990,

**MUNICIPAL LAW ENFORCEMENT OFFICER** - shall mean any Ontario Provincial Police Officer acting on behalf of the Corporation of the Township of North Kawartha.

**MUNICIPAL BY-LAW ENFORCEMENT OFFICER** shall mean the officer(s) so appointed by the Corporation of the Township of North Kawartha and those officers appointed as fire officers by the Ministry of Natural Resources authorities to enforce local by-laws including open air burning regulations as referenced by the Forest Fire Prevention Act and Ontario Regulation 207/96.

**ONTARIO FIRE CODE** - shall mean O.Reg. 388/97 made under the Fire Protection and Prevention Act, S.O. 1997, C.4, as amended.

**OUT OF CONTROL** as highlighted within this bylaw means; when a fire spreads beyond the boundaries of the parcel of land or containment area in which it was first ignited, or threatens to do so, or when it endangers any life, building or property, or when the fly ash or burning brands are causing or have the potential to cause other fires, or when such fire is left unattended is considered ***out of control***.

**OWNER** shall mean any person, firm, company or corporation of the property(s) under consideration and shall include the persons occupying such property.

**PERSON** - shall mean any individual, association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representatives thereof.

**PERMIT** - shall mean a permit issued by the Township office or Township selected agencies, the Fire Chief or his/her designates, signifying permission to set or maintain or allow to be set or maintained a “fire” and establishing the conditions under which the permission is granted in the forms attached as Schedule “A”, Schedule “B”, Schedule “C” hereof.

**PROHIBITED MATERIALS** - includes “Household Waste”, rubber or rubber products, plastic or plastic products, and waste petroleum products and any material or materials which are prohibited by the Environmental Protection Act, R.S.O. 1990, Chapter E.19, as amended.

## **SECTION 2: REQUIREMENTS**

- 2.1 The provisions of the By-Law shall apply to all land and areas so designated as being within the legal boundaries of the Corporation of the Township of North Kawartha.
- 2.2 NO “person” shall set out “fire” without first obtaining a fire permit. Fees for said permits shall be as follows:
- a) Residential Fire permit - 12 month - **FREE**
  - b) Contractors Fire permit – 3 month - **\$50.00**
  - c) Campground, Trailer Park, Resort Fire Permit – 12 month - **\$50.00**

(No daytime burning during the Ministry of Natural Resources Fire Season, April 1 to October 31, between 8:00 AM and 6:00 PM).  
Sample Permits shown as Schedule “A”, Schedule “B”, Schedule “C”

- 2.3 Permits shall be issued only to the owner of the property where the fire is to be set out save for an authorized person or agent acting upon his/her behalf who has dated and signed written authorization by the owner.
- 2.4 NO permit shall be issued to a property owner where open air burning will have a detrimental effect on his/her neighbors because of the substance(s) being burned or the size or the location of the burn area.
- 2.5 Upon obtaining a fire permit in accordance with 2.2 the owner or his agent shall:
- a) Ensure that the fire is supervised at all times by a competent person who is at least 16 years of age or older.

- b) In the opinion of a permit issuer or fire department member so authorized or a fire warden have sufficient resources available to control the fire at all times.
  - c) Ensure that any fire set out is never left unattended.
  - d) Ensure that fire is not set out until after 6: 00 PM during the Ministry of Natural Resources Fire Season.
  - e) Ensure that any fire set out is extinguished before 8:00 AM during the Ministry of Natural Resources Fire Season.
  - f) Ensure that where debris is to be burned, the fire shall be properly contained.
  - g) Ensure that any fire set out is not ignited by gasoline, oil, petroleum by-products or any toxic or hazardous material.
  - h) Ensure that any fire set out shall not be within a distance of 10 meters of any building or within 10 meters of any other combustibles, vehicular roadway of any kind or nature, overhead wiring or property lines.
  - i) Ensure that any fire set out is not larger than 1 meter x 1 meter x 1 meter (3.3 feet x 3.3 feet x 3.3 feet) or 0.6 meter x 0.6 meter x 0.6 meter (2 feet x 2 feet x 2 feet) for a campfire.
  - j) Specifications in i) do not apply for a contractors permit.
- 2.6 Where in the opinion of the Fire Chief or his/her designate, a potentially dangerous situation exists due to fire, smoke, weather, environmental or health concerns the Fire Chief may rescind, suspend or cancel any or all burning permits.
- 2.7 Permits must be obtained through the Township Office during normal working hours or through Township selected agencies so designated by the Corporation of the Township of North Kawartha.
- 2.8 **Other than during the Ministry of Natural Resources Fire Season**, April 1 to October 31, RESPONSIBLE day burning is allowed.
- 2.9 Notwithstanding any provisions herein, no "Person" shall set or maintain a fire;
- a) In contravention of the "Ontario Fire Code", the Environmental Protection Act, or any other statutory requirements of the Province of Ontario or the Government of Canada;
  - b) Containing "Prohibited Materials";
  - c) In any park owned or operated by the "Municipality" without the written permission of the "Municipality";
  - d) In any outdoor fireplace or any other burning appliance or container unless same complies with the requirements contained within 2.2 and 2.5.
  - e) Burn any allowed material without obtaining and having on their person an activated Fire (Burning) Permit for those types of Open Air Burns requiring one;

- f) Which does not meet the definition of a “Cooking Fire” without having obtained an Open Air Burn Permit;
  - f) When a “Burn Ban” has been declared and put in place by the “Fire Chief” or his/her designate;
- 2.10 No Open Air Burning shall be commenced or maintained when the wind is in such a direction or intensity to cause any or all of the following:
- a) The possible spread of the fire beyond the approved burn site;
  - b) A decrease in the visibility on any highway or roadway;
  - c) Any odor to such an extent or degree so as to cause discomfort to the persons in the immediate areas; and/or
  - d) Excessive smoke or any other “Adverse Effect”;
  - e) Any “Dangerous Condition”;
- 2.11 No Open Air Burning shall be commenced or maintained when rain or fog is present or weather conditions prevent the ready dispersion of smoke.
- 2.12 No “Permit” shall be required for domestic barbeques or permanent outdoor fireplaces used for the purpose of cooking of food on a grill and extinguished immediately upon completion of it's use to cook.
- 2.13 No “Person” shall cause to be burned more than one pile at any one time, without the written approval of the “Fire Chief” or his/her designate.
- 2.14 No “Person” shall set a non-condoned fire including, but not limited to, a grass fire.
- 2.15 No hay, straw, leaves, grass clippings or standing material may be burned, unless approved by the “Fire Chief” or his/her designate
- 2.16 During the “Ministry of Natural Resources Fire Season” **no** “Open Air Burning shall be allowed between the time of 08:00 hours (8:00 AM) until 18:00 hours (6:00 PM) each day, seven (7) days a week.
- 2.17 The time indicated for no burning does not apply to a “Cooking Fire” as defined, if a “Burn Ban” is not in place and all precautions have been taken as defined and outlined.
- 2.18 The North Kawartha Fire Department is exempt from this by-law for the purposes of educating and training individuals.
- 2.19 The Fire Chief may grant special approval for a variance to the open air burning regulations contained in this by-law.
- 2.20 Any person may make application in writing to the Fire Chief for special approval of open air burning with religious, cultural or environmental significance, as an exception to the provisions of this By-law. Any such application shall include statement(s) to describe the purpose, reason and intent of the request, location and size of the fire, date and time of the fire, safety measures and supervision arrangements. The application shall also include a site diagram including distances showing the fire location relative to buildings / structures, trees, shrubs, hedges, fences, overhead obstructions, flammable materials and property lines.

- 2.21 "Permits" may be cancelled at any time by the Fire Chief or his/her designate. Upon receiving notice of such cancellation or suspension, the holder of the permit shall immediately extinguish the fire(s) started under said permit.

### **SECTION 3: ISSUANCE OF PERMIT**

- 3.1 The issuance of a "Permit" may require the prior inspection of the proposed burn site by the "Fire Chief" or his/her designate.
- 3.2 In applying for a "Permit", no "Person" shall furnish false or misleading information.
- 3.3 "Permit(s)" may be obtained from the "Township" of North Kawartha office or designated township locations or the "Fire Chief".
- 3.4 It is the responsibility of the "Person" granted a "Permit" to check and monitor burning conditions and adhere to any "Burn Ban" that may be in place
- 3.5 It is the responsibility of the "person" who is burning to have immediately available to them the "Permit" which they were issued for inspection by the "Fire Chief" or his/her designate, "Municipal By-law Enforcement Officer" or the "Municipal Law Enforcement Officer".
- 3.6 In any prosecution under a provision of this by-law that requires a "Permit", the onus is on the "Person" charged to prove that the "Person" had a "Permit" at the time the offense is alleged to have been committed.

### **SECTION 4: FIRE DEPARTMENT RESPONSE**

- 4.1 In the event that the Fire Department is called to respond to an alarm to extinguish any open air burning which has escaped from the control of the owner, the cost of said response shall be charged against the "Person" and / or "Owner" in accordance with Schedule "D" as set out in this By-Law.

### **SECTION 5: ADMINISTRATION AND ENFORCEMENT**

- 5.1 The "Fire Chief" or designate, "Municipal Law Enforcement Officer", "Municipal By-Law Enforcement Officer" and any person so appointed by the Corporation shall have the authority to administer this By-Law in its entirety.
- 5.2 The "Fire Chief" or his/her designate may, at any time, and in the exercise of his or her sole discretion, issue a "Burn Ban", effective for a specified period of time, prohibiting the setting of any and all Open Air Fires within any area of the Township.
- 5.3 Notwithstanding Section 2 of this By-Law, the "Fire Chief" or his/her designate may revoke any or all "Permits", or refuse to issue "Permits" where, in the opinion of the "Fire Chief" or his/her designate, that the ability to control the fire is hampered by the existence of a "Dangerous Condition", which exists on or in the proximity of the proposed Open Air Burning site.
- 5.4 Any "Person" and / or "Owner" who fails to comply with the provisions of this By-law, or who fails to properly supervise and maintain a fire, or who fails to extinguish a fire once notification to do so has been given to him/her by the "Fire Chief" or his/her designate shall, in addition to any penalty provided for herein, be liable to the Municipality for all expenses incurred for the purposes of controlling and extinguishing of any fire so set or left to burn and such expenses may be recovered by court action. The expenses for which the

“Person” and / or “Owner” may be liable cover the cost of sufficient personnel and equipment required to control a fire, as set out within Schedule "D" hereof. Such expenses shall be equally chargeable in the event that a deliberately set fire burns out of control, such that the services of the Fire Department are necessary.

- 5.5 Any costs chargeable to any “Person” and / or “Owner” pursuant to section hereof shall be invoiced to the “Person” and / or “Owner” and paid to the Township within thirty (30) days of the date of such invoice
- 5.6 No action or other proceeding for damages shall be brought against the Township or any employee of the Township or Township selected agencies, as a result of any act done in good faith in the issuance of approval, permission, or authorization under this By-law. Notwithstanding the above, the person who receives approval, permission or authorization under this By-law, shall indemnify and hold the Township harmless from any damages, causes of action, claims or costs of any kind arising from or resulting from any damages or injuries caused by fire, smoke, or other causes.
- 5.7 It shall be the responsibility of the “Person” and / or “Owner” 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, and shall otherwise jointly and severally be responsible for any damage or injury to persons or property as a result of setting the fire or permitting the fire to burn.

#### **SECTION 6: VIOLATIONS AND PENALTIES**

- 6.1 In addition to any other penalty prescribed by this by-law, any “Person” who contravenes any provision of this by-law is guilty of an offence and is liable to a fine or penalty for each offence, exclusive costs and upon conviction is liable to a fine as set out in the Provincial Offenses Act R.S.O. 1990 Chapter P.33 and the Fire Protection and Prevention Act, 1997 S.O. 1997.
- 6.2 Any person who sets an open fire;
  - o without first obtaining the necessary “*permit*”, or;
  - o without following the conditions detailed in this By-law to set out a “*fire*”;

Shall be liable for a fine as per Schedule “E”, and, if the services of the fire department are necessary due to the fire being “*out of control*”, charges as set out in Schedule “D” shall also be payable.

#### **SECTION 7: SCHEDULES AND SEVERABILITY**

- 7.1 Schedules "A", "B", "C", "D" and “E” attached to this by-law shall also be read with and form part of this by-law.
- 7.2 The provisions of this by-law are severable. If any provision, section or word is held to be invalid or illegal, such invalidity or illegality shall not affect or impair any of the remaining provisions, sections or words.

#### **SECTION 8: VALIDITY**

- 8.1 This By-Law shall come into force effective the 1<sup>st</sup> day of January, 2012.

**SECTION 9: REPEAL**

- 9.1 That By-Law # 24/11 and all previous by-laws to regulate the setting of open air fires be repealed effective January 1, 2012.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED IN  
OPEN COUNCIL THIS 5<sup>th</sup> DAY OF June, 2012.**

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Jim Whelan, Reeve

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Connie Parent, Clerk

**SCHEDULE "D"**

**FEE SCHEDULE**

The expenses for which the "Person" or "Owner" may be liable, cover the cost of sufficient personnel and equipment required to control a fire, as referred to within Section 6 of this by-law, and such costs have been deemed as being:

**RESPONSE FEES**

First hour or part thereof per fire unit vehicle \$ 410.00

Each half hour thereafter or part thereof per fire unit vehicle \$ 205.00

Fire response pay per man and man hour or part thereof at current pay rate per firefighter for incident response

This shall be calculated from the initial dispatch of the fire department or any fire department under contract or agreement, until such time as each vehicle is back in service (defined as when the vehicle is back at the hall and has been replenished with the requirements for the unit to respond to the next activation)

These fees are in addition to any fines or penalties established elsewhere, in accordance with this by-law.

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**SCHEDULE "E"**

**FINE SCHEDULE**

The fines for which the "Person" or "Owner" may be liable as referred to within Section 6 of this by-law shall be:

**FINE SCHEDULE**

First offense	\$ 75.00
Second offense	\$ 150.00
Third and successive offenses	\$ 300.00

The registered "Owner" will be the one fined as per above.