



THE CORPORATION OF THE TOWNSHIP OF ALBERTON

BY-LAW NO. 27/15

Being a By-Law for the purpose of controlling and regulating open air burning including prescribing a year-round fire season and the requirement for fire permits

WHEREAS the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended (the “Act”) empowers municipal councils to pass by-laws regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS the Act also empowers municipal councils to 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 *Municipal Act, 2001*, S.O. 2001, c.25, s. 128, as amended, empowers municipal councils to pass by-laws to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the council, are or could become or cause public nuisances;

AND WHEREAS the Act and *Ontario Regulation #213/07*, being the *Ontario Fire Code*, at Section 2.6.3.4 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, used to cook food on a grill or barbeque;

AND WHEREAS, on the recommendation of the Alberton Fire Chief after conferring with the District Mutual Aid Coordinator and the Mutual Aid Plan Fire Chiefs, Council for the Township of Alberton is desirous of enacting an updated open air burning by-law consistent with his recommendations;

NOW THEREFORE Council of the Corporation of the Township of Alberton enacts as follows:

1. DEFINITIONS

For purposes of this By-Law the following definitions shall apply:

- “Approved” means approved by the Chief Fire Official or designate.
- “Approved burn products” excludes all toxic, environmentally injurious, or contaminated materials.
- “Chief Fire Official” means the Fire Chief of the Alberton Volunteer Fire Department or his/her designate.
- “Firefighter” includes all of the members of the Alberton Volunteer Fire Department, including the Fire Chief.
- “Officer” means a fire fighter, or police officer.
- “Open air” means any open place, yard, field or construction area which is not enclosed by a building or structure.
- “Open air burning” means any fire, portion of fire or precursor conditions that are not wholly contained and thereby open to air.
- “Outdoor Fireplace” means a manufactured non-combustible enclosed container designed to hold a small fire for decorative purposes and the size of which is not larger than 1 meter in any direction, and may include, but is not limited to, chimineas. Only the combustion chamber should be evaluated in determining the size of the container.
- “Township” means The Corporation of the Township of Alberton.

2. Administration

- 2.1 This By-Law shall be administered by the Chief Fire Official and shall be enforced by the Chief Fire Official and the Ontario Provincial Police.

3. Fire Season

- 3.1 The fire season in the Township shall commence on the 1st day of January and shall end on December 31st in each year.
- 3.2 Day burning shall be permitted in the Township commencing on November 1st to and including February 28th in each year provided that all other provisions set out on the fire permit are complied with, and specifically those regarding wind and burning pile size.

4. Requirement for Permit and Payment of Fee

- 4.1 No person shall set a fire or permit the setting of a fire within the Township without first having obtained a fire permit from the Chief Fire Official, and in accordance with the provisions of the said permit and this By-Law.
- 4.2 Any property owner or tenant, other than an industrial or commercial property owner or tenant, is entitled to a fire permit under this By-Law who:
- 4.2.1 Completes the fire permit form and submits same to the Chief Fire Official or to an appointed permit issuer for the Township in advance of the setting of an open-air fire. The fire permit form shall be submitted to the Chief Fire Official directly or to an appointed permit issuer at the Alberton Municipal Office. The fire permit holder shall provide in the fire permit form information indicating that he or she shall comply with the provisions of this By-Law; and
- 4.2.2 Pays the prescribed fee for the fire permit as may be established by Council for the Township from time to time; or
- 4.2.3 Receives approval from the Chief Fire Official to conduct the burn as described in the fire permit.
- 4.2 Any industrial or commercial property owner or tenant is entitled to have a fire permit issued by the Fire Chief or his designate under this By-Law provided that:
- 4.2.1 The Fire Chief or his designate attends at the property to conduct an inspection of the proposed burn pile and surrounding area and:
- 4.2.1.1.1 after such inspection, determines that a permit may be issued by him; or
- 4.2.1.1.2 after such inspection, identifies and advises the property owner that the proposed burn pile must be altered, relocated or downsized, or that items must be removed from the burn pile, and, upon re-inspection, the Fire Chief or his designate determines that such actions have been completed satisfactorily and a permit may be issued by him.
- 4.2.2 He or she completes the fire permit form and submits same to the Fire Chief or his designate in advance of the setting of an open-air fire. The fire permit holder shall sign the fire permit form indicating and confirm that he or she shall, and accepts responsibility on behalf of the property owner to, comply with the provisions of this By-Law; and
- 4.2.3 He or she pays the prescribed fee for the fire permit as may be established by Council for the Township from time to time; or
- 4.2.4 Receives approval from the Fire Chief or his designate to conduct the burn as described in the fire permit.

5. Where Permit Not Required

- 5.1 The Alberton Volunteer Fire Department shall be exempt from the provisions of this By-Law with respect to open air burnings set for the purpose of educating, training, and risk reduction.
- 5.2 Fires contained in grills or barbeques for the purpose of cooking food shall be exempt.

6. Revocation, Suspension

- 6.1 A fire permit may be cancelled or suspended at any time by the Chief Fire Official. Immediately upon receiving notice of such cancellation or suspension, the fire permit holder shall immediately extinguish or cause to be extinguished any fire started pursuant to the permit.
- 6.2 The Chief Fire Official or designate may at his or her discretion issue a fire ban for the Township of Alberton, at which time all open air burning shall be prohibited until such time as the ban is lifted.

7. Burning Requirements

- 7.1 Where a fire permit has been issued pursuant to this By-Law, or if a fire is set without a permit contrary to the provisions of this By-Law, the fire permit holder and the owner of the lands on which the fire is set, if they are not one and the same person shall be responsible for any damage or injury to persons or property with respect to the setting of a fire or permitting the fire to burn and they shall ensure that::
- 7.1.1 All fires shall be built using only non-toxic, uncontaminated materials, and only materials that are not environmentally injurious.
- 7.1.2 Unless otherwise approved by the Chief Fire Official, not more than 3 cubic metres of piled material may be burned at any one time;
- 7.1.3 The fire pile must be separated from any structure by a minimum of 4 metres.
- 7.1.4 When burning grass, not more than .4 of a hectare may be ignited at any one time. If the fire line exceeds 30 metres, it must be extinguished to less than that maximum threshold.
- 7.1.5 The fire is attended at all times by a competent person until it is completely extinguished.
- 7.1.6 Sufficient equipment and resources are available at the burn site to extinguish the fire in the event that the fire gets out of control or is causing any adverse effect, including those set out in Section 8 of this By-Law.
- 7.1.7 At the end of the burn, that the fire is completely extinguished prior to the fire permit holder or the owner leaving the burn site.

8. Conditions of Permit

- 8.1 Where a fire permit is issued, no person shall:
- 8.1.1 Set a fire or permit a fire to burn when the wind is in such a direction or of such intensity so as to reduce the visibility on any roadway or to cause danger to any person or structure;
- 8.1.2 Set a fire or permit a fire to burn when the Ministry of Natural Resources has issued a fire ban for the region;
- 8.1.3 Set a fire or permit a fire to burn when the Chief Fire Official has issued a fire ban in the municipality or has suspended the fire permits in the municipality;
- 8.1.4 Set a fire or permit a fire to burn during spring, summer or fall other than between the hours of three hours before sunset and three hours after daybreak, unless otherwise expressly permitted by the Chief Fire Official;
- 8.1.5 Set a fire or permit a fire to burn during winter when there is less than six (6) inches of snow on the ground in the burning area, unless otherwise expressly permitted by the Chief Fire Official, despite day burning being permitted during winter;
- 8.1.6 Set a fire or permit a fire to burn without first having confirmed that the materials to be burned meet the requirements of this By-Law as identified in the definition of *approved burn products* set out in Section 1 hereof;
- 8.1.7 Set a fire in a manner that creates a nuisance or causes a disturbance; or

- 8.1.8 Set a fire without having a portable fire extinguisher, operable garden hose, or other extinguishing materials available and on site while the fire is burning.

9. Offences and Enforcement

9.1 A person is guilty of an offence if the person:

- 9.1.1 Furnishes false information in the application for a fire permit;
9.1.2 Contravenes any provision of this By-Law; or
9.1.3 Fails to produce a valid fire permit when requested by an officer as defined by this By-Law.

9.2 Regarding failure to comply with the provisions of this By-Law:

9.2.1 Where a fire is set on any property in the Township without a permit, the property owner shall immediately extinguish the fire or the fire service may extinguish the fire on his/her/its behalf with all costs incurred being recoverable from the property owner, including by way of adding such costs to the tax roll for the property and collecting such costs in the same manner as taxes where the property owner fails to pay such costs within thirty (30) days of being invoiced for same.

9.2.2 The Chief Fire Official or his designate may revoke a permit if the permit holder fails to comply with the requirements of the permit and/or of any other provision of this By-Law.

9.2.2.1 Upon revocation, the permit holder or owner shall immediately extinguish the fire or the fire service may extinguish the fire on his/her/its behalf with all costs incurred being recoverable from the property owner, including by way of adding such costs to the tax roll for the property and collecting such costs in the same manner as taxes where the property owner fails to pay such costs within thirty (30) days of being invoiced for same.

9.3 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 provisions of the *Provincial Offences Act*, R.S.O. 1990 Chapter P.33, as amended, as set out in Schedule "A" attached hereto and forming part of this By-Law.

9.4 Notwithstanding the offence provisions of this By-Law, any person who contravenes Section 2.6.3 of the *Ontario Fire Code* may be prosecuted in accordance with the Section 28 of the *Fire Protection and Prevention Act, 1997*.

9.5 The Chief Fire Official or his designate may revoke a permit if the permit holder fails to comply with the requirements of the permit and/or of any other provision of this By-Law.

9.5.1 Upon revocation, the permit holder or owner must immediately extinguish the fire or the fire service may extinguish the fire on his or her behalf with all costs incurred being recoverable from the property owner, including by way of adding such costs to the tax roll for the property and collecting such costs in the same manner as taxes where the property owner fails to pay such costs within thirty (30) days of being invoiced for same.

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

9.6.1 Is not set in compliance with this By-Law; or

9.6.2 Is determined upon inspection by the Chief Fire Official or an Officer to constitute a safety hazard or a concern.

Upon order to extinguish, the permit holder or owner must immediately extinguish the fire or the fire service may extinguish the fire with all costs incurred being recoverable from the property owner, including by way of adding such costs to the tax roll for the property and collecting such costs in the same manner as taxes where the property owner fails to pay such costs within thirty (30) days of being invoiced for same.

9.7 In addition to any financial penalties or fines which may be imposed under the authority of Section 9 of this By-Law, costs which may imposed by the Chief Fire Official or designate in respect of Section 9 above include the following:

- 9.7.1 An hourly charge of \$400.00 for the duration of response by the Township's pumper truck, or by any pumper truck(s) of a Mutual Aid or Mutual Assistance partner;
- 9.7.2 An hourly charge of \$400.00 for the duration of response by the Township's tanker truck, or by any tanker truck(s) of a Mutual Aid or Mutual Assistance partner;
- 9.7.3 An hourly charge of \$250.00 for the duration of response by the Township's rescue truck, or by any similar vehicle(s) of a Mutual Aid or Mutual Assistance partner;
- 9.7.4 An hourly charge of \$250.00 for the duration of response by the Township's rescue half-ton, or by any similar vehicle(s) of a Mutual Aid or Mutual Assistance partner;
- 9.7.5 An hourly charge of \$50.00 for each firefighter responding for the duration of the fire response, whether such firefighter is a member of the Alberton Volunteer Fire Department or of a Mutual Aid or Mutual Assistance partner.

Costs imposed under this section shall be recoverable from the property owner, including by way of adding such costs to the tax roll for the property and collecting such costs in the same manner as taxes where the property owner fails to pay such costs within thirty (30) days of being invoiced for same.

10. Severability

- 10.1 Should any section or subsection of this By-Law or any part or parts thereof be found by law to be illegal or beyond the power of the Council to enact, such section or subsection or part or parts thereof shall be deemed to be severable so that the remainder of this By-Law shall continue in force.

11. Repealing Section

- 11.1 Open Air Burning By-Law #27/13, and By-Law #10/14 shall be and are hereby repealed effective on third reading hereof.

12. Effective Date

- 12.1 This By-Law shall come into force and take effect upon third reading thereof.

13. Short Title

- 13.1 This By-Law shall be known as the "Open Air Burning By-Law."

THIS BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 18TH DAY OF NOVEMBER, 2015.


Reeve


Clerk

SCHEDULE “A”
TO
BY-LAW #27/15 - OPEN AIR BURNING BY-LAW
FINES UNDER PART 1, PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Failure to extinguish fire.	s. 5.1	\$200.00
2	Set a fire which did cause a disturbance to residents	s. 7.7	\$200.00
3	Failure to supervise burning.	s. 6.6	\$200.00
4	Burning without adequate extinguishment equipment.	s. 7.8	\$200.00
5	Failure to remove residual products of combustion.	s. 6.9	\$200.00
6	Permit a fire to burn outside of permitted hours.	s. 7.5	\$200.00
7	Failure to follow permit conditions.	s. 3.1	\$200.00
8	Permit a fire to burn within 4 metres of any structure.	s. 6.4	\$200.00
9	Permit a fire to burn within 3 metres of hedge, fence, wires, roadway or other combustibles.	s. 6.4	\$200.00
10	Permit a fire to burn without a permit	s. 3.1	\$200.00
11	Permit a fire to burn with prohibited materials.	s. 4.6	\$200.00
12	Permit burning of materials piled greater than 3 cubic metres	s. 6.2	\$200.00
13	Permit burning during Fire Ban.	s. 7.4	\$200.00

NOTE: The general penalty provision for the offences listed above is section 9.3 of By-Law #27/15. , a certified copy of which has been filed, and the *Provincial Offences Act*, R.S.O., 1990, c.33.