

THE CORPORATION OF THE TOWNSHIP OF CHISHOLM

BY-LAW NO. 2012-29

Being a by-law to establish Open Air Burning Procedures

WHEREAS under the authority granted in Section 7.1 of the Fire Protection and Prevention Act, S.O, 1997, as amended, Chapter 4, Municipal Councils may establish open air burning by-laws to regulate the setting of fires, including establishing the times during which open air fire may be set.

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

AND WHEREAS the Ontario Fire Code Part 2 Section 2.6, Article 2.6.3.4. states 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 barbeque.

NOW THEREFORE the Council of the Township of Chisholm enacts as follows:-

1. For the purposes of this by-law, the following definitions shall apply:-
 - a) "Agricultural Waste" shall include any animal fecal deposits or manure, and animal carcasses;
 - b) "Approved" means as approved by the Chief Fire Official or his/her designate;
 - c) "Campfire" means a small contained fire supervised at all times and used to cook food or to provide warmth within an approved location under the conditions and terms of the Open Air Fire Burning Permit as issued;
 - d) "Chief Fire Official" means the assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the fire department appointed by the Municipal Fire Chief.
 - e) "Domestic Waste" shall include kitchen waste, food, scraps, cloth, rags, clothing, plastics and any other materials which contents include any of the aforementioned;
 - f) "Fire Chief" means the Fire Chief employed by the Corporation of the Township of Chisholm;
 - g) "Incinerator" means an enclosed approved device used to burn approved refuse and detailed in Schedule 'B' of this by-law;
 - h) "Industrial Waste" shall include used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics or other material which contents include any of the aforementioned;
2. This by-law shall apply to all land within the geographical limits of the Township of Chisholm and to the setting of fires in the open air (fires) on any such land.
3. A fire wholly contained within a permanent or portable barbeque that is used for the preparation of food for human consumption shall not be deemed to be a fire for the purposes of this by-law.
4. No person(s) or owner(s) of land shall:-
 - a) set a fire or permit the setting of a fire, or having set or permitted the setting of a fire, permit a fire to continue to burn without first having obtained a fire permit, in the form attached hereto as Schedule "A" or in accordance with Schedule "B"

from the Chief Fire Official or his/her designate, and in accordance with the provisions of the permit and this by-law.

- b) set a fire or permit the setting of a fire or allow a fire to burn no earlier than 6:00 p.m. and no later than 6:00 a.m. during the fire season.

The period from the first day of April to the last day of October in each year shall be a fire season.

- c) set a fire or allow a fire to burn in any highway, park, walkway, public land, or upon any land owned by the Corporation of the Township of Chisholm without having first obtained permission to do so from the Chief Fire Prevention Official or his or her designate.
 - d) burn industrial waste, agricultural waste, domestic waste, petroleum products, rubber, painted lumber, mixed demolition debris or anything else that will cause excessive smoke or fumes in addition to any other material identified in the regulations contained in the Environmental Protection Act;
 - e) set a fire or allow a fire to burn on any land of which he/she is not the registered owner, without the written permission of the registered owner;
 - f) no person shall start a fire or permit the setting of a fire or allow a fire to burn in a restricted fire zone.
5. Where an Open Air Fire Burning Permit, pursuant to this by-law, has been issued the applicant and the owner shall jointly and severally 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 to insure that:
- a) only dry material is burned (including leaves);
 - b) the fire is kept at least six (6) metres from any dwelling and/or from any structure;
 - c) the fire is attended at all times until it is completely extinguished before leaving the burn site;
 - d) sufficient equipment and resources are available at the burn site to extinguish the fire if the fire gets out of control or is causing any adverse effect including those set out in Section 6 below;
 - e) when obtaining an incinerator permit, site must be inspected by a member of the Chisholm Volunteer Fire Department;
 - f) no damage results to property or injury to persons with respect to the setting of a fire or permitting the fire to burn.
6. Where an Open Air Fire Burning Permit, pursuant to this by-law has been issued, no person shall:
- a) set a fire or permit a fire to burn when the wind is in such a direction or of such intensity so as to create a decrease in the visibility on any highway or cause danger to any person or structure;
 - b) create, by the setting or burning of the fire, any odour which causes discomfort to any person residing in the area;
 - c) set a fire or permit a fire to burn without first having confirmed that the materials to be burned meet the requirements of the Environmental Protection Act, R.S.O. 1990, Chapter E. 19.

7. Any Open Air Fire Burning Permit may be cancelled or suspended at any time by the Chief Fire Official or his/her designate and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire started under the permit.
8. Notwithstanding the provisions of Section 4, 5 and 6 hereof the Chief Fire Official may, upon application, approve the setting of fire subject to the fire being supervised by the Fire Chief of the Corporation of the Township of Chisholm or his/her designate.
9. If the Chisholm Volunteer Fire Department is called to respond to a fire set or permitted to burn, in violation of this by-law, the person who set the fire, or allowed it to burn, and the owner of the land if the owner permitted the fire to be set or permitted the fire to burn, shall forthwith pay, upon demand the costs incurred by the Chisholm Volunteer Fire Department including the personnel, equipment and apparatus necessary to extinguish any fire set or burning contrary to this by-law or contrary to any permit issued under this by-law by paying the fees as follows:-
 - a) for an uncontrolled fire, be liable for costs incurred by the fire department, at a rate of \$175.00 per half hour (30 minutes) for each fire fighting apparatus accompanied with four (4) people; or crews of eight (8) people.
 - b) time will be charged from the receipt of the alarm through to the time responding personnel leave the location of the fire, to return to their respective stations.
10. If any person fails to pay the fees set out above, forthwith upon demand, the amount of the fee in default may, in addition to any other remedies Chisholm may have, be recovered by the Corporation of the Township of Chisholm in like manner as municipal taxes in accordance with Section 398(2)2 of the Municipal Act S.O. 2001, c.25, against the owner of the land, if the owner set the fire, allowed the fire to burn, or permitted the fire to be set or to burn, in violation of this by-law or any permit issued under this by-law.
11. Every person who contravenes any provision of this by-law is guilty of an offense and may be charged in accordance with the terms of the Fire Protection and Prevention Act as amended, Part 2 subsection 2.6.3.4. of the Ontario Fire Code, in addition to the requirement to pay the fees set out above; or may be charged with an offence under the Provincial Offences Act under this by-law.
12. By-law No. 97-06 is hereby repealed.
13. This by-law will come into force on the date of passing.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
11th DAY OF SEPTEMBER, 2012.**

Mayor, Leo Jobin

Clerk-Treasurer, Linda M. Ringler