

— TOWNSHIP OF —  
ASHFIELD - COLBORNE - WAWANOSH

THE CORPORATION OF THE TOWNSHIP OF  
ASHFIELD-COLBORNE-WAWANOSH

BY-LAW NUMBER 52-2012

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BEING A BYLAW TO REGULATE AND CONTROL  
OPEN AIR BURNING WITHIN  
THE TOWNSHIP OF ASHFIELD-COLBORNE-WAWANOSH

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**WHEREAS** Section 8.(1) of the Municipal Act, the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues. 2006, c. 32, Schedule A, s. 8.

**AND WHEREAS** Section 9 of the Municipal Act, the Municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act. 2006, c 32, Schedule A, s. 8.

**AND WHEREAS** Section 425(1) of the Municipal Act, a Municipality may pass bylaws providing that a person who contravenes a bylaw of the municipality passed under this Act is guilty of an offence. 2006, c. 32, Schedule A, s. 184.

**AND WHEREAS** Section 446(1) of the Municipal Act, S.O. 2001, c. 25, permits the municipality to cause remedial action and recover the costs of so doing;

**AND WHEREAS** Part 2 subsection 7.1 (1) of the Fire Protection and Prevention Act 1997, c. 4 allows a Council of a municipality to pass by-laws regulating the setting of open air fires, including establishing times during which open air fires may be set;

**AND WHEREAS** Section 2.6.3.4 of the Fire Protection and Prevention Act, 1997 reaffirms 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 WHEREAS** the Council of the Corporation of the Township of Ashfield-Colborne-Wawanosh deems it desirable to pass such a bylaw to regulate the setting and burning of open air fires.

**NOW THEREFORE** the Council of the Corporation of the Township Ashfield-Colborne-Wawanosh hereby enacts as follows:

## 1.0 SHORT TITLE

This Bylaw may be cited as "Burning Bylaw;

## 2.0 DEFINITIONS

For the purpose of this By-law,

- a) "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, or
  - viii) interference with the normal conduct of business;
- b) "Approved Outdoor Fire Container" means a container approved by the Fire Chief or Bylaw Enforcement Officer as set out in Schedule "A" of this Bylaw;
- c) "Barbeque" means a manufactured device or structure with a grill which is designed, intended and used solely for the purpose of cooking food outdoors, and includes a hibachi, but does not include devices or structures designed for personal warmth, fire pits, or Outdoor Fire Containers;
- d) "By-law Enforcement Officer" means an individual designated by Council to enforce the by-laws of the Corporation of the Township of Ashfield-Colborne-Wawanosh;
- e) "Council" means the elected Council of the Corporation of the Township of Ashfield-Colborne-Wawanosh;
- f) "Dangerous Condition" means:
  - i) a lack of precipitation which, in the opinion of the Fire Chief increases the risk of the spread of fire;
  - ii) winds which in the opinion of the Fire Chief increases the risk of spread of fire;

or

  - iii) any other condition declared by the Fire Chief to be a dangerous condition from time to time, which increases the risk of the spread of fire;
- g) "Household Waste" means combustible material such as household plastics, polyethyleneterephalate (PET), paints, oils, solvents, rubber, insulation, batteries, acids, polystyrenes (Styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fabrics, diapers and hazardous wastes as defined in the Environmental Protection Act, and all other similar and like materials but shall not include untreated wood and wood fibre products such as un-laminated paper and cardboard and boxboard, brush and leaves;

- h) "Fire Chief" means the Fire Chief of the Township of Ashfield-Colborne-Wawanosh; Fire Department or his/her designate;
- i) "Fire Department" means firefighting or fire protection services of the Township of Ashfield-Colborne-Wawanosh and includes any person duly appointed to the Fire Department by Council or the Fire Chief;
- j) "Municipality" means the Corporation of the Township of Ashfield-Colborne-Wawanosh;
- k) "No Open Burning Area" means all properties classed as "Settlement Area, Natural Environment" or classed as "Other" as identified in the Municipalities Zoning By-Law #32-2008 as amended from time to time;
- l) "Open Air Burning" means the ignition and incineration by fire of combustible materials but does not include a "small confined fire" and is allowed only in "Open Air Burning Area;
- m) "Open Burning Area" means all properties classed as "Agricultural Area, Extractive Resource, or Recreational" as identified in the Municipalities Zoning By-Law #32-2008 as amended from time to time;
- n) "Person" means any individual, association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representatives thereof;
- o) "Prohibited Materials" means 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;
- p) "Small Confined Fire" generally means of no greater size than required for cooking, or for the burning of yard waste, in an approved outdoor fire container, this relative term shall be defined at the scene by the By-law Officer, Fire Chief or OPP Officer attending using his/her discretion with regard to relative location and safety factors;
- q) "Yard Waste" means brush and wood chips;

### 3.0 BURNING AREAS WITHIN THE MUNICIPALITY

This By-law shall apply to all properties classed as "Settlement Area, Natural Environment" or classed as "Other" as identified in the Municipalities Zoning By-Law #32-2008 as amended from time to time of the lands within the Municipal boundaries of the Township of Ashfield-Colborne-Wawanosh;

Within the "No Open Air Burning Area" the following are permitted:

- a) Domestic barbeques or permanent outdoor grills used solely for the purpose of cooking food on a grill and are extinguished immediately upon completion of the cooking process;
- b) small confined fires in an approved outdoor fire container used for the purpose of cooking, or the burning of yard waste, supervised at all times and conforms to the requirements, as defined in Schedule "A" of this By-law;

#### 4.0 BURN BAN

- a) Notwithstanding the provisions of this Bylaw, the Fire Chief may institute a burn ban at any time, as may be deemed necessary in the opinion of the Fire Chief and it is in the interests of public safety, no person, organization, partnership, company or group shall be entitled to a "small contained fire" or "open air burning" during a burn ban.

#### 5.0 ADMINISTRATION AND ENFORCEMENT:

- a) This by-law shall be administered and enforced by the Fire Chief, Bylaw Enforcement Officer of the Township of Ashfield-Colborne-Wawanosh or his/her designates, or the Ontario Provincial Police.
- b) Every person who contravenes any provision of this Bylaw is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33 as amended.
- c) In the event that a "Small Confined Fire" or "Open Air Burning" starts grass, brush and or other materials and burns out of control and requires the assistance of fire fighting or fire protection services of the Township of Ashfield-Colborne-Wawanosh or any other municipality, then all costs in connection with providing this assistance shall be borne by the assessed owner of the property subject to the fire either deliberately set or otherwise ignited.
- d) The Municipality may, in default of the owner failing to pay the costs described in Section 8 (c) of this Bylaw, may pay the cost on his or her behalf and recover the costs incurred as municipal taxes as set out in the Municipal Fees and Charges Bylaw.
- e) Council of the Township of Ashfield-Colborne-Wawanosh may revoke any part of this Bylaw for a specific time in the event of a natural disaster. This may include flood, tornado or another act of nature.

#### 6.0 VALIDITY

Should any part, section or provision of this Bylaw be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this Bylaw as a whole or in part thereof, other than the part which was declared to be invalid.

#### 7.0 REPEAL OF FORMER BYLAWS

The provisions under this Bylaw shall apply if any other by-law is found to be inconsistent with this By-law and hereby repeals Bylaw #28-2007.


#### 8.0 EFFECTIVE DATE

This Bylaw shall come into force and effect immediately upon the day of final passing thereof.

Read a **FIRST** and **SECOND** time this 20<sup>th</sup> day of November 2012.

Read a **THIRD** TIME and **FINALLY PASSED** this 20<sup>th</sup> day of November 2012.

  
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 Reeve, Ben VanDiepenbeek

  
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 Administrator/Clerk-Treasurer, Mark Becker

## SCHEDULE "A"

## TOWNSHIP OF ASHFIELD-COLBORNE-WAWANOSH

## APPROVED OUTDOOR FIRE CONTAINER AND REGULATIONS

An approved Outdoor Fire Container shall be constructed of non-combustible materials such as a metal container, a steel barrel, tire rim or any other container approved by the Fire Chief or By-Law Enforcement Officer;

An approved container shall be no larger than two (2) feet (61 cm) by two (2) feet (61 cm) by two (2) feet (61 cm) or 8 cubic feet (0.26 cubic metres) in size;

The container shall have a wire mesh or expanded sheet metal screen with a maximum mesh size of 1 inch (25 mm) covering the open top of the container;

The container shall be placed on base mineral soil, bare rock, cement or non-combustible material;

Children under the age of 18 years are prohibited from igniting fires or being in a supervisory role;

Appropriate extinguishing agents (e.g. Water hose, sand, or fire extinguishers) will be on-hand at all times during the preparation of the fire, while the fire is underway, and until the fire is fully and completely extinguished;

No person shall burn materials other than yard waste, or commercially produced charcoal, briquettes, or clean, dry seasoned wood, but not including painted wood, pressure treated wood or creosote treated wood;

Under no circumstances are paint, solvent, rubber (e.g. tires), wire (including coating), plastics, asphalt and shingles, and toxic chemicals (e.g. pesticides), or materials that violate the regulations of the Ministry of the Environment to be burned, ignited or added to the fire at any time;

No person shall burn wood having dimensions greater than the size of the outdoor fire container and the wood shall be totally confined within the container at all times;

Every person burning a small confined fire must provide for a minimum distance of 10 feet (3 m) in all directions from any combustible material;

Every person conducting a small confined fire must attend, control and supervise the same at all times and shall completely extinguish the fire before it is vacated;

No person shall conduct small confined fire when the wind speed exceeds 10 mph (16 km/h) or during rainy or foggy weather or at times when a smog alert has been declared by the Ministry of the Environment and Energy for Ontario or any successor and relevant Ministry;