

THE CORPORATION OF THE TOWNSHIP OF MORLEY

BY-LAW NO. 1405

Being a By-Law to provide for the regulation of open air burning of materials and to govern the issuance of fire permits.

WHEREAS the Council of the Corporation of the Township of Morley is empowered under the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended (the Act) to pass by-laws regulating fire prevention, including the prevention of spreading fires;

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

AND WHEREAS the Act and O. Reg. 213/07, the Ontario Fire Code, at s.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, and used to cook food on a grill or a barbeque.

AND WHEREAS Section 326 authorizes the municipality to recover the expense incurred by it in taking any action to do what another person has been directed or required to do by by-law;

AND WHEREAS Section 7(1) of Regulation 207/96 made pursuant to the *Forest Fires Prevention Act*, R.S.O. 1990, chapter F.24 provides that an officer may cancel or suspend a fire permit and may give notice of the suspension or cancellation.

AND WHEREAS open air fires which may escape from control constitute a danger and expense for persons and property within The Corporation of the Township of Morley;

AND WHEREAS the Council of The Corporation of the Township of Morley deems it expedient to enact a by-law to regulate the open air burning of materials and to govern the issuance of fire permits.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MORLEY ENACTS AS FOLLOWS:

1.

In this by-law:

- (a) "Brush piles" mean branches, limbs, stumps or parts thereof.
- (b) "Chief Fire Official" means the Chief of the Fire Department of The Corporation of the Township of Morley or his/her designate.
- (c) "Conditions" relate to any factor which could increase the fire hazard such as wind velocity, degree of humidity, or proximity of the site to very flammable material.
- (d) "Corporation" means The Corporation of the Township of Morley.

- (e) "Council" means the Council of The Corporation of the Township of Morley.
- (f) "Debris" means surface litter (leaves, needles) and combustible wood products.
- (g) "Field/Crop burning" means burning in whole or in part, of areas of agricultural land and products.
- (h) "Fire Department" means the Fire Department of The Corporation of the Township of Morley.
- (i) "Fire permit" means a form substantially similar to the form attached as Schedule 1 to this by-law.
- (j) "Incinerator" means a container meeting the requirements as specified in Section 8 of this by-law.
- (k) "Municipal Fire Warden" and/or "Fire Permit Issuer" are defined as those appointed under by-law of The Corporation of the Township of Morley.
- (l) "Officer" means Municipal Chief Fire Official, Municipal Fire Warden, Municipal By-Law Officer, members of the Ontario Provincial Police, and/or Fire Officers and Conservation Officers of the Ministry of Natural Resources.
- (m) "Peat" means soil with a minimum of 30 per cent organic matter.
- (n) "Seasonal" fire permit means a fire permit that has been issued for the entire fire season.
- (o) "Windrows" mean refuse from land clearing, bulldozed into piles or rows, consisting of soil/gravel, trees, roots, stumps and brush.

2.

- (a) No open air burning shall be permitted without a fire permit unless,
 - (i) such burning consists of a small contained fire supervised at all times and used for cooking or warmth as provided under the Forest Fires Prevention Act.
- (b) Seasonal fire permits may be issued,
 - (i) for burning in an incinerator; and
 - (ii) to individuals who have attended the approved fire management training course.
- (c) No person or persons who have a seasonal fire permit for the burning of grass, brush, windrows, peat, fields, or crops shall set a fire in the open air unless such person or persons has (have) notified a Fire Permit Issuer.

3.

Except under the authority of a fire permit, no person shall ignite fireworks during a fire season in or within 300 metres of a forest or woodland.

4. It is a condition of the fire permit that,
 - (a) the permittee shall be present at the site of the burning operation conducted under the permit.
 - (b) the permittee shall have the permit at the site of the burning operation conducted under the permit and shall produce and show the permit to any officer, whenever requested by the officer; and
 - (c) the permittee assumes full responsibility for the burning operation conducted under the permit.

5.
 - (a) Subject to Section 4, the fire permit shall be issued by a Municipal Fire Permit Issuer where burning is to occur. No person shall start a fire outdoors unless, the fire is started no sooner than two (2) hours before sunset and extinguished by 12:00 midnight and the wind is less than 16 km/hr.
 - (b) Authorization shall be obtained from the Chief Fire Official in all other circumstances.

6. Every person who starts a fire outdoors or is in charge or apparently in charge of a fire outdoors shall,
 - (a) ensure that all conditions will allow the fire to burn safely from start to extinguishment;
 - (b) take all necessary steps to keep the fire under control;
 - (c) extinguish the fire before quitting the site;
 - (d) be present at the site of the fire at all times unless a fire permit specifies otherwise; and
 - (e) extinguish the fire, if the fire is started under the authority of a fire permit, by the time specified in the fire permit.

7.
 - (a) An Agricultural/Industrial Burn Plan, approved by the Chief Fire Official, shall be required for the burning of,
 - (i) windrows;
 - (ii) fields/crops;
 - (iii) peat; or
 - (iv) materials on, or bordering areas of peat.
 - (b) An Agricultural/Industrial Burn Plan shall include the following particulars;
 - (i) the applicant's name;
 - (ii) the location of the activity;
 - (iii) the applicant's fire prevention plan with respect to inspections, personal safety and fire guards;
 - (iv) the applicant's fire detection plan with respect to fire patrol and reporting;
 - (v) the applicant's fire suppression equipment located at the site of the activity; and

- (vi) the qualifications and training of the persons responsible for the fire prevention and suppression of the activity.

8.

No person shall operate an outdoor incinerator unless,

- (a) the incinerator is an enclosed device constructed entirely of non-combustible material;
- (b) the incinerator is at least five metres from any forest or woodland;
- (c) the incinerator is at least two metres from any combustible materials; and
- (d) the outlet of the incinerator is covered with a screen having a mesh size of not more than five millimetres.

9.

An officer is authorized to order any person to put out any fire where it poses a danger to life or property.

10.

The Municipal Chief Fire Official, Municipal Fire Warden, Municipal By-Law Officer, members of the Ontario Provincial Police and/or a Fire Officer and Conservation Officer of the Ministry of Natural Resources are authorized to enforce this by-law.

11.

- (a) Every person setting a fire in the open air shall comply with all lawful direction of an officer.
- (b) Where in the opinion of the Chief Fire Official, a potential fire danger exists, the Chief Fire Official may suspend, refuse or rescind the permit.

12.

Nothing in this by-law shall be deemed to authorize any burning or other act which contravenes the Environmental Protection Act R.S.O. 1990, c. E.19, the Ontario Fire Code, or Forest Fires Prevention Act, or any regulations made thereunder.

13.

It is declared that if any section, subsection or part or parts thereof of this by-law be declared by any court of law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereto are declared to be separate and independent and enacted as such.

14.

The provisions of this by-law shall apply to the whole of The Corporation of the Township of Morley.

15.

Any references to time in this by-law for any period of the year during which Central Daylight Time is proclaimed to be in effect, shall be construed according to Central Daylight Time and not Central Standard Time.

16.

- (a) Any fine imposed or offense created by this by-law related to any matter is subject to the provisions of the Provincial Offences Act.

(b) Any person who contravenes any provision of this by-law or any order made thereunder may be liable for all damages to public and/or private property caused by fire and may also be liable for the full cost of extinguishing the fire.

(c) Any person who contravenes any provision of this by-law or any order made thereunder or any condition of a permit issued thereunder is guilty of an offense and may, upon conviction thereof, pay a penalty of not more than \$2,000.00 exclusive of costs.

17.

(a) All accounts rendered by the Corporation for services (including expenses by the Corporation) as referred to in Section 16, shall be paid within thirty (30) days of the billing.

(b) If payment is not made by the owner in accordance with the provisions of Section 17 (a), the Corporation may recover the expense incurred by action, or the same may be recovered in like manner as municipal taxes.

18.

All by-laws or parts thereof and all or any resolutions of the Council of The Corporation of the Township of Morley inconsistent with this by-law are hereby revoked.

19.

This by-law comes into force and takes effect immediately upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME in open Council and FINALLY PASSED this 11th day of February, 2015.

REEVE

CLERK-TREASURER