

**THE CORPORATION OF THE  
TOWNSHIP OF ADELAIDE METCALFE**

**BY-LAW #51-2012**

**BEING A BY-LAW TO REGULATE THE ESTABLISHMENT OF OPEN  
FIRES**

**WHEREAS** Section 7.1 of *The Fire Protection and Prevention Act, 1997, as amended*, provides authority to Municipal Councils to pass by-laws regulating fire prevention, including the prevention of the spread of fires, and the setting of open air fires, including establishing the times during which open air fires may be set;

**AND WHEREAS** Section 128 of the *Municipal Act, 2001, as amended*, provides authority to Municipal Councils 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** Section 130 of the *Municipal Act, 2011, as amended*, provides authority to Municipal Councils to pass by-laws to regulate matters relating to the health, safety and well-being of the inhabitants of the municipality;

**AND WHEREAS** Section 391 of the *Municipal Act, 2001, as amended*, provides authority to Municipal Councils to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

**AND WHEREAS** Section 429 of the *Municipal Act, 2001, as amended*, provides authority to Municipal Councils to establish a system of fines for offences under a by-law passed under this Act;

**AND WHEREAS** Section 446 of the *Municipal Act, 2001, as amended*, provides authority to Municipal Councils to direct or require a person to do a matter or thing, the municipality may provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense and may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

**AND WHEREAS** Council considers excess smoke, smell, airborne sparks or embers to be or could become or cause public nuisances by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighbouring properties and generating false fire alarms;

**AND WHEREAS** Section 2.6.3.4 of the Ontario Fire Code provides for the prohibition of open air burning unless approved or unless such burning consists of the use of a small confined fire, supervised at all times, and used to cook food on a grill or barbecue;

**AND WHEREAS** Section 6 of the *Farming and Food Production Protection Act, 1998, SO 1998, c. 1* provides that no municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation;

**NOW THEREFORE** the Council of The Corporation of the Township of Adelaide Metcalfe enacts as follows:

**1. DEFINITIONS**

“**Adelaide Metcalfe Fire Chief**” means the Fire Chief as appointed by the Township of Adelaide Metcalfe or his/her designate.

**“Barbecue”** means a portable or fixed device including a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended solely for the cooking of food in the open air.

**“Municipality”** means the Corporation of the Township of Adelaide Metcalfe.

**“High Risk Periods”** means any period of time, when due to extreme dry, high wind or other conditions, there is a higher than normal risk of unwanted spread of fire, as determined by the Ontario Fire Marshal or the Adelaide Metcalfe Fire Chief, and identified as a High Risk Period.

**“Non-Restricted Areas”** means those lands within the Township of Adelaide Metcalfe other than those delineated and identified in the attached Schedule “A”.

**“Open Fire”** means any fire not completely enclosed in a building or structure.

**“Open Air Burning”** means a fire set in the Open Air.

**“Poor Air Quality”** means any period of time when a Poor Air Quality Advisory has been issued by Environment Canada or other recognized government health or meteorological agency.

**“Prohibited Burn Materials”** means materials other than dry, untreated wood and includes household waste, toxic or potentially toxic waste, leaves, grass, asphalt shingles, construction materials, tires, rubber, plastic, styrofoam, insulation or human or animal excrement.

**“Restricted Area”** means those lands within the Township of Adelaide Metcalfe delineated and identified in the attached Schedule “A”.

**“Safe Location”** means outdoors and not on a porch or balcony area that is roofed or otherwise covered, or near dry vegetation, or in any place conducive to unwanted development or spread of fire or explosion, or too near any structure or lot line, or supported by combustible material.

## 2. RESTRICTED AREAS

2.1 No person shall set an open fire within the designated restricted areas as listed on Schedule “A” attached to this By-law.

2.2 Notwithstanding the restrictions in 1.1 above, exemptions will be made under the following conditions:

- 2.2.1 Open fire consisting of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue, in a safe location.
- 2.2.2 Open fires set for training sessions under specific permission and control of the Adelaide Metcalfe Fire Chief or his designate.
- 2.2.3 Fire extinguisher safety demonstrations under specific permission and control of the Adelaide Metcalfe Fire Chief or his designate.

## 3. NON-RESTRICTED AREAS

3.1 Every person proposing to set an open fire in a non-restricted area shall, unless exempted by Section 3.3 of this By-law, contact Fire Dispatch at 519-245-1300 or 1-844-220-1300 immediately prior to starting a controlled fire.

3.2 Notification to Fire Dispatch is required for the following:

- 3.2.1 Open fires set for training sessions under specific permission and control of the Adelaide Metcalfe Fire Chief or his designate;
- 3.2.2 Fire extinguisher safety demonstrations under specific permission and control of the Adelaide Metcalfe Fire Chief or his designate;
- 3.2.3 Open fires set in association with normal farming practice.

3.3 Notification to Fire Dispatch is not required for the following:

- 3.3.1 Open fire consisting of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbeque or for recreational use in a safe location provided an effective means of extinguishment is readily available and must be extinguished when finished.

3.4 After notification to Fire Dispatch, the following are conditions upon which a fire may be permitted:

- 3.4.1 Open fire must be limited to the burning of dry, untreated wood.
- 3.4.2 Materials such as, but not limited to, household waste, toxic or potentially toxic waste, leaves, grass, asphalt shingles, construction materials, tires, rubber, plastic, Styrofoam, insulation or human or animal excrement are prohibited from burning and/or being used as an accelerant.
- 3.4.3 Materials not generated on the property are prohibited from burning.
- 3.4.4 Burning must be confined to daylight hours.
- 3.4.5 No fire shall be set so as to have smoke or debris interfere with vehicular traffic on a public roadway.
- 3.4.6 No fire shall be set if the wind conditions or the quality of the burn restricts neighbours from enjoyment of their normal use of their property or causes discomfort to persons in the immediate area.
- 3.4.7 No fire shall be set when a Poor Air Quality Advisory or smog advisory has been issued.
- 3.4.8 No fire shall be set during a period identified as a High Risk Period.

3.5 Every person who sets an open fire in a non-restricted area shall:

- 3.5.1 Supervise the fire at all times;
- 3.5.2 Take all reasonable steps to keep the fire under control;
- 3.5.3 Ensure means of extinguishment are readily available;
- 3.5.4 Extinguish the fire before leaving the site of the fire;
- 3.5.5 Be responsible for any damage to property or injury to persons that may result from the said fire.

#### 4. ORDER TO EXTINGUISH FIRES

- 4.1 Upon notification by the Fire Chief and/or his designate and/or the By-law Enforcement Officer to extinguish an open fire, the property owner, occupant or supervisor shall immediately extinguish the fire.
- 4.2 Should the property owner, occupant or supervisor fail to immediately extinguish the fire upon notification in section 4.1, the property owner, occupant and/or supervisor may be held liable for any and all costs incurred by the Fire Department in its efforts to extinguish the fire.

5. ENFORCEMENT

- 5.1 Persons who set fires not in compliance with conditions of this By-law may be liable for costs incurred by the Fire Department, including personnel, equipment and apparatus necessary called to investigate, respond or extinguish said fire, as established under the By-law to Establish Various Fees and Charges for Services for the Municipality, as amended from time to time.
- 5.2 In addition to charges for services provided by the Municipality, any person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine and penalty pursuant to the provisions of *The Provincial Offences Act*, or in the *Municipal Act, 2001, as amended*, and/or may be subject to fines or prosecution under *The Fire Protection and Prevention Act* by the Municipality.

6. PROVINCIAL LEGISLATION

Nothing in this By-law shall supersede or waive the requirements of any Provincial Legislation and/or Regulation.

7. FORCE AND EFFECT

- 7.1 This By-law shall come into full force and effect upon third and final reading.  
READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED  
on this <sup>13</sup> day of *August*, 2012
- 7.2 That By-Law #45-2005 is hereby repealed.

  
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Mayor David Bolton

  
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Administrator/Clerk/Treasurer Fran I. Urbshott

**SCHEDULE 'A'**  
**To By-law #51of 2012**

**RESTRICTED AREAS**

- 1.) Village of Adelaide
- 2.) Village of Kerwood
- 3.) Village of Napier
- 4.) BATTERY Creek Subdivision
- 5.) Cairn Gorm Subdivision
- 6.) Highway #81 Commercial Area
- 7.) One Lot West of Pike Road, including Lots 18 & 19 along Napperton Drive
- 8.) Hamlet of Walker's