



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 058-2012

A BY-LAW TO REGULATE OPEN AIR BURNING WITHIN THE TOWN OF COBOURG.

WHEREAS the Ontario Fire Code, Ontario Regulation 213/07 permits the Chief Fire Official to approve open air burnings;

WHEREAS pursuant to Section 7.1 (1) (b) of the *Fire Protection and Prevention Act*, 1997, S.O. c.4, as amended authorizes that a council of a municipality may pass by-laws, regulating the setting of open fires, including the establishing of the times during which open fires may be set;

AND WHEREAS pursuant to Section 11.2 (6) and (8) of the *Municipal Act* S.O. 2001 c.25 as amended provides that a municipality may pass by-laws respecting the health, safety and well being of persons and for the protection of persons and property;

AND WHEREAS pursuant to Section 8 (1) of the *Municipal Act* S.O. 25 confers 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;

AND WHEREAS the Council of the Town of Cobourg has consulted with the Chief Fire Official of the Town of Cobourg in preparing the content of this By-law;

1. In this By-law:

- (a) "Chief Fire Official" means the Fire Chief of the Town of Cobourg or any member of the Cobourg Fire Department designated in writing by the Fire Chief to carry out the responsibilities of the Chief Fire Official pursuant to the provisions of the By-law;
- (b) "Council" shall mean the elected Council of the Town of Cobourg;
- (c) "Farm lands" shall mean lands actively being used for general farming and, without limiting the generality of the foregoing, shall include such uses as the general cultivation of land and associated production, conditioning, processing and storing and selling of field crops, vegetables, fruit, horticultural crops and nursery stock and includes lands for the breeding and care of livestock, fowl and other animals;
- (d) "Fire" means any fire set by any person in the open air within the municipal boundaries of the Town of Cobourg;
- (e) "Ontario Fire Code" means O.Reg. 213/07 made under the *Fire Protection and Prevention Act*. S.O. 1997, c.4, as amended;

- (f) "Person" means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, administrators or other legal representatives of a person;
- (g) "Prohibited Debris" shall mean any brush, yard waste, household garbage, treated or painted lumber, construction debris, plastics, rubber, product or other thing that, when burned, may result in the release to the atmosphere of dense smoke, offensive odours or deleterious substances including but not limited to petroleum based products, tires, rubber, plastic, pathological waste, household refuse.
2. The provisions of this By-law shall apply to all lands within the municipal boundaries of the Corporation of the Town of Cobourg.
3. (a) No person shall set or maintain a fire except as:
- (i) may be permitted by this By-law; or
 - (ii) may be approved by the Chief Fire Official; or
 - (iii) may be permitted by the Ontario Fire Code.
- (b) Without limiting the generality of the foregoing, no person shall burn prohibited debris.
- (c) No person shall permit a fire to be set or maintained upon land owned, occupied or under the control of such person contrary to the provisions of this By-law.
4. (a) A fire for recreational, camp-style purposes may be set at any time or times without a permit under this By-law subject to the following precautionary requirements:
- (i) Such fire shall be supervised by a responsible person at all times; and
 - (ii) Such fire shall be kept small, safely confined and under control at all times; and
 - (iii) Such fire shall be kept a minimum distance of 3 metres from the nearest property line, shrub, overhanging trees or other combustible materials, and 10 metres from the nearest building or other combustible structures.
 - (iv) Fire suppression equipment or materials shall be readily available for the extinguishment of the fire; and
 - (v) Such fire shall be fully extinguished before the site of the fire is left by the person responsible for setting and supervising the fire.
- (b) A fire set or maintained in accordance with the provisions of Paragraph 4(a) of this By-law is hereby deemed to be "approved" by the Chief Fire Official for purposes of Section 2.6.3.4 of the Ontario Fire Code.
- (c) Except as provided in Paragraph 4(a) of this By-law, no fire shall be set or maintained by any person on farm lands or on a construction site except in accordance with the terms and provisions of a permit issued by the Chief Fire Official.

- (d) Every such permit issued shall stipulate the precautionary requirements and conditions which shall be strictly adhered to by the person setting and maintaining the fire.
 - (e) The fee for the above-mentioned type of permit shall be set annually by Council by by-law or resolution.
 - (f) The person setting and maintaining the fire shall be required to notify the Chief Fire Official on each day of the proposed fire, prior to the setting of such fire.
 - (g) While in a park or on municipal lands, no person shall:
 - i) Use any barbeque or cooking device without a "Special Event" or "Pavilion Event" Permit or is an activity specifically approved for municipal purposes issued for the specific day and kept at all times on the person in charge of the barbeque;
 - ii) Section 4 (a)(iii) and 4 (g)(i) shall not apply to the Victoria Park Trailer Park or the Cobourg Marina leaseholds;
5. The Chief Fire Official may order that any fire (whether permitted by this By-law or not) be extinguished where;
- i) the Chief Fire Official deems the fire to be unsafe; or
 - ii) the Chief Fire Official deems that the fire or the smoke therefrom is causing discomfort to neighbouring land owners or occupants.
6. Every person who is responsible for the setting or maintaining a fire shall be liable for all costs incurred by the Cobourg Fire Department in extinguishing such fire in the event that:
- i) the fire becomes out of control; or
 - ii) the fire is set in contravention of the provisions of the Ontario Fire Code, this By-law or any permit issued hereunder; or
 - iii) the fire is extinguished in the circumstance described in Section 5(i) or (ii) of this By-law,
- and the Corporation of the Town of Cobourg shall be entitled to recover from such person all such costs as a debt owing to the Town of Cobourg.
7. Every person who contravenes any provision of this By-law shall be guilty of an offence and shall, upon conviction, be liable to the penalties as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
8. The Chief Fire Official may terminate, suspend or cancel a Permit issued pursuant to this By-law upon contravention of any provision of this By-law or the Ontario Fire Code or any terms and conditions found on a Permit issued pursuant to this By-law.

9. If any term or provision of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such term or provision to all persons other than those to whom it was held to be invalid or unenforceable, shall not be affected thereby and each term and provision of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
10. This By-law shall come into force and take effect upon the final passing hereof.
11. By-law Number 17-01 is hereby repealed.

READ a first, second and third time and finally passed in Open Council
this 16th day of July, 2012.


MAYOR


MUNICIPAL CLERK