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THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2005 - 88

A By-law for prescribing the times **and conditions for** Open Air Burning and the precautions to be observed during Open Air Burning, and to repeal By-law 96-30.

WHEREAS the *Municipal Act, S.O. 2001, C.25*, provides that Municipalities have the capacity, rights, powers and privileges to exercise their authority, including the times during which open air burning may be permitted and the precautions to be observed by persons during open air burning; and

WHEREAS the *Ontario Fire Code O. Reg. 388 / 97 Article 2.6.3.4. Open Air Burning* 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 barbecue;

NOW THEREFORE the Council of the Corporation of The Township of Essa enacts as follows:

1. **Definitions**

“Agricultural Waste” shall be deemed to be animal faecal deposits or manure and animal carcasses.

“Domestic Waste” shall be deemed to include kitchen waste, food scraps, cloths, rags, clothing, plastics and any other materials whose contents include any of the aforementioned including recyclable materials.

“Fire Chief” means the individual appointed by By-law as the Fire Chief of the Township of Essa.

“Industrial Waste” shall be deemed to include used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics or other materials which contain any of the aforementioned.

“Permit” means a Permit approving open air burning issued by The Township of Essa and upon the conditions set out herein.

“Recyclable Materials” means any item identified as recyclable which may be collected through the curbside collection system.

“Township” means The Corporation of The Township of Essa.

**2. Requirements for Open Air Burning**

- a. The provisions of this By-law shall apply to all lands within the limits of the Township of Essa and to open air burning on any such lands.
- b. No person shall set a fire or permit a fire to burn without first having obtained the necessary open air burning permit, such permit being issued by the **Clerk, the Fire Chief, the By-law Enforcement Officer, or person designated to issue such permit.**
- c. Persons over the age of 18 years shall be in attendance until a fire has been completely extinguished.

**3. Conditions of the Burning Permit**

No permit will be issued without the following information being provided by the applicant:

- a. The name, address, and telephone number of the owner and tenant, if any, on whose property the fire is to be set.
- b. The name, address, and telephone number of the person who is responsible for setting the fire, its care, control and extinguishments.
- c. The date when the fire is to be set.
- d. The exact location where the fire is to be set.
- e. The equipment and material that is to be available at the site for the purpose of controlling or extinguishing the fire.
- f. **The reason for requesting an open air burning permit**
- g. The type of materials to be burned.
- h. **The open air burning method to be used (metal drum, burning pit, other).**

**4. Approval Required**

- a) **All open air burning identified under “burning pit” shall require a site inspection and be approved by the Fire Chief or designate.**
- b) **The “burning pit” should not exceed a size of 3 feet by 3 feet.**

- c) **All open air burning identified under “other” shall require a site inspection and be approved by the fire chief or his / her designate.**

**5. Zoning Restrictions**

- a) **Subject to Section 4 above, no permit shall be issued for any commercial, industrial or institutional property prior to an inspection and receiving approval by the Fire Chief or designate.**

**6. Cooking Fires**

A fire wholly contained within a permanent or portable barbecue that is used for the preparation of food for human consumption must meet the following conditions:

- a. The construction features and location of the cooking device shall be approved.
- b. The cooking fire shall consist of a small, confined fire, supervised at all times and used to cook food on a grill or barbecue.
- c. **A grill shall be kept over the entire barbecue with flames not reaching higher than the cooking grill.**
- d. The construction features of the outdoor fireplace shall be designed for food preparation (cooking) containing a grill or barbecue.

Approved outdoor cooking devices shall not be deemed to be a “fire” for the purpose of this By-Law.

**7. Any person who has been issued a fire permit pursuant to Section 3 above shall:**

- a. Burn only dry materials;
- b. Keep open air burning at least 15 metres (50 feet) from any dwelling and 10 metres (33 feet) from any other structure;
- c. Attend the fire at all times until it is completely extinguished;
- d. Provide sufficient equipment and resources at the open air burning site to extinguish the fire in the event that the fire gets out of control or is causing an adverse effect.

**8. Any person who has been issued an open air burning permit pursuant to Section 3 above shall not:**

- a. Set a fire in any street, land or other public property;

- b. Set a fire when the wind is in such a direction or intensity so as to create decreased visibility for motorists from smoke.
- c. Set a fire that produces smoke or an odor that causes discomfort to persons residing in the area. **Any such fire that has been reported as a smoke complaint must be extinguished.**
- d. Set a fire when rain or fog is present as smoke cannot disperse properly and may become concentrated at ground level or in one particular area.
- e. Burn industrial waste, agricultural waste, domestic waste, petroleum products, plastics, rubber, painted lumber, demolition debris, **recyclable materials**, garbage or any other products, debris, waste, materials or things that are detrimental to the environment **and cause excessive smoke or fumes.**
- f. Open air burn between sunset and sunrise.
- g. Open air burn in any urban or built up area (ie. Angus, Thornton, Baxter, estate-residential subdivisions, and hamlets as defined in the Township's Zoning By-law) unless it is contained in a metal drum with a grate or spark arrestor over the top of the metal drum.
- h. Outdoor fireplaces that *do not* have a ULC or CSA certification are not approved for use within the limits of the Township of Essa.
- i. Outdoor fireplaces are approved for use as an alternate to a metal drum subject to the conditions referred to in Section 8.
- j. Notwithstanding any other provisions in this By-law;
  - i. Permission may be refused where, in the opinion of the Fire Chief or **designate**, a dangerous condition exists or the ability to control the fire is hampered; and
  - ii. any permission, once granted, may be rescinded by the Fire Chief or **designate** upon being satisfied that the conditions and circumstances surrounding the granting of permission to open air burn have so changed, that a dangerous condition would exist; and
  - iii. any permission, once granted, may be rescinded **due to weather conditions** or above normal fire hazard ratings.
  - iv. The rescission of permission referred to in paragraph (hii) above shall be served verbally or in writing by the Fire Chief or designate.

9. The fee for the issuance of an open air burning permit shall be set **and provided in the current fee schedule of the Township.**
10. This By-law shall not apply to a fire for cooking purposes, providing that the fire is properly contained and meets the requirements of section 6 of this by-law.

#### **11. Enforcement and Penalties**

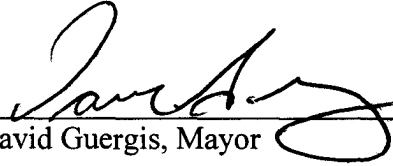
- a) Any person setting any open fire in the Township shall:
  - i. be responsible for any damage to property or injury to persons occasioned by the said fire;
  - ii be liable for and will forthwith on demand pay all costs incurred by the Fire Department including use of personnel, equipment and apparatus necessary to attend at or extinguish any fires set or burning contrary to this By-law.
- b) In the event any person fails to pay the costs referred to in paragraph 11(ii) hereof forthwith on demand, the amount in default may be recovered by the Township through a collection agency, or in a like manner as municipal taxes in accordance with the *Municipal Act*.
- c) Every person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, liable to a fine pursuant to the *Provincial Offences Act*.


#### **12. General Provisions**

- a) If any court of competent jurisdiction finds that any of the provision of this By-law is ultra vires, or are invalid for any reason, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of the By-law which shall remain in full force and effect.
- b) Where the context permits, words importing the singular also include more than one persons, parties or things of the same kind.
- c) The word “may” shall be construed as permissive and the word “shall” shall be construed as imperative.
- d) By-law 96-30 is hereby repealed.
- e) The short form title of this By-law shall be the “Open Air Burning By-law”.

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READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY  
PASSED on this the Sixteenth day of November, 2005.

  
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David Guergis, Mayor

  
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Carol O. Trainor, Clerk / Deputy Treasurer

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating Offence	COLUMN 3 Set Fine
1.	Burning without a permit	2b	\$125.00
2.	Failing to have a person over 18 years attend the fire	2c	\$125.00
3.	Commercial, industrial or institutional burning without approval	5a	\$125.00
4.	Having a cooking fire without a grill	6c	\$125.00
5.	Failing to comply with Permit conditions	7	\$125.00
6.	Burning within 15 metres from any dwelling	7b	\$125.00
7.	Burning within 10 metres of a structure	7b	\$125.00
8.	Abandoning a fire before it is extinguished	7c	\$125.00
9.	Setting a fire on a street or other public property	8a	\$125.00
10.	Setting a fire causing smoke to decrease visibility on a highway	8b	\$125.00
11.	Setting a fire which creates an odour causing discomfort to others	8c	\$125.00
12.	Setting a fire in rain or fog	8d	\$125.00
13.	Burning products which are detrimental to the environment	8e	\$125.00
14.	Burning between sunset and sunrise	8f	\$125.00
15.	Burning in a built up area	8g	\$125.00

The penalty provision for By-law 2005-88 is under Section 11, Enforcement and Penalty. A Certified Copy is attached.

**Township of Essa  
By-law 2005 - 88  
Open Air Burning By-law  
Part I Provincial Offences Act**

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