

THE CORPORATION OF THE MUNICIPALITY OF CENTRAL ELGIN

BY-LAW NO. 773

A by-law to provide for regulation and control for the setting of fires, the prevention of fires, and the removal of fire hazards.

WHEREAS Section 7.1 of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 as amended, authorizes the Council of a Municipality to pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set, and otherwise regulating fire prevention including the prevention of the spreading of fires;

AND WHEREAS it is deemed advisable to exercise the authority conferred by the said Act within the Municipality of Central Elgin;

NOW THEREFORE the Council of the Corporation of the Municipality of Central Elgin hereby enacts as follows:

1.0 DEFINITIONS

In this by-law:

- 1.1 **“Chief Fire Official”** means the Fire Chief of the Municipality of Central Elgin or a member or members of the Fire Department designated by the said Fire Chief.
- 1.2 **“Council”** means the Council of the Municipality of Central Elgin.
- 1.3 **“Controlled Burn”** is defined as a burn that has been authorized, in writing, by the Chief Fire Official for the Municipality and is under the control of the Fire Department.
- 1.4 **“Dangerous Conditions”** means:
 - a) A lack of precipitation which, in the opinion of the Chief Fire Official, increases the risk of the spread of fire;
 - b) Winds which, in the opinion of the Chief Fire Official, increases the risk of the spread of fire; or
 - c) Any other condition declared by the Chief Fire Official to be a dangerous condition, from time to time, which increases the risk of the spread of fire.
- 1.5 **“Equipment and Resources”** means sufficient personnel and equipment such as rakes, shovels, backhoes, bulldozers, front-end loaders, or water on-site required to control a fire.
- 1.6 **“Enclosed Fire”** means a fire set in a container constructed for incineration purposes according to the specifications of the Ontario Fire Code.
- 1.7 **“Fire”** means any fire set in the open air by any person within the boundaries of the Municipality, but does not include an enclosed fire.
- 1.8 **“Fire Department”** means the fire department of the Municipality.
- 1.9 **“Municipality”** means the Municipality of Central Elgin.

- 1.10 **“Fire Code”** means O.Reg. 388/97 made under the Fire Protection and Prevention Act 1997, S.O. 1997, c.4, as amended.
- 1.11 **“Permit”** means the permit issued by the Chief Fire Official signifying permission to set a fire and establishing the conditions under which the permit is granted.
- 1.12 **“Person”** means any individual, association, firm, partnership, corporation, agent, or trustee, and their heirs, executors, or other legal representatives of such person.

2.0 General Provisions

- 2.1 Subject to that set forth below, no person shall set a Fire or allow a Fire to burn without first having obtained a Permit from the Chief Fire Official.
- 2.2 Subject to that set forth below, no person being the owner or occupant of lands and/or premises within the Municipality shall set a Fire or allow a Fire to be set or otherwise burn on such lands unless a Permit has been issued by the Chief Fire Official in respect of that Fire.
- 2.3 Notwithstanding but without limiting the generality of the foregoing prohibitions and in addition to that set forth above, no person shall set or maintain a Fire:
- a) in contravention of the Ontario Fire Code, the Environmental Protection Act, or any other statutory requirements of the Province of Ontario or the Dominion of Canada;
 - b) on any highway or other public property within the Municipality;
 - c) in any park owned or operated by the Municipality without the written permission of the Municipality;
 - d) at a distance of less than 4.5 metres from any building, structure, hedge, fence, vehicular roadway of any kind or nature, or overhead wiring on any property within the Municipality;
 - e) at a distance of less than 4.5 metres from any property line;
 - f) unless there is space clear and free from combustible materials around the perimeter of such Fire of at least nine (9) metres;
 - g) where the consumption of material will exceed the limit set by the Chief Fire Official;
 - h) in violation of any term, condition, or requirement set forth in a Permit issued by the Chief Fire Official;
 - i) unless the Equipment and Resources designated on the Permit are available at the Fire site at all times during the Fire;
 - j) unless the person to whom the Permit has been issued or such other person as may be designated in the Permit is in attendance at the Fire in a responsible and supervisory capacity at all times until such Fire has been completely extinguished;
 - k) on any site, or in the vicinity of any site, where construction or related activities are carried on; and
 - l) in any outdoor fireplace or any other burning appliance unless same is approved by the Chief Fire Official.

- 2.4 No fire in the open air shall be maintained when the wind is in such a direction or intensity to cause any of the following:
- a) The possible spread of the Fire beyond the approved burn site;
 - b) A decrease in the visibility on any highway or roadway; or
 - c) Any odour to such an extent or degree so as to cause discomfort to persons in the immediate area.
- 2.5 No Permit will be required for and this by-law does not prohibit the use of a Fire for legitimate cooking or heating purposes so long as the said Fire is contained in an area not exceeding one (1) cubic metre in accordance with Section 2.6.3.4 of the Ontario Fire Code and provided further that such Fire is fuelled only by natural gas, propane, charcoal, or clean, dry wood.
- 2.6 Any Fires under the direct and constant supervision and control of the Central Elgin Fire Department are exempt from the application of this by-law.

3.0 Issuance of Permit

- 3.1 At least twenty-four (24) hours prior to the date upon which it is intended to set a Fire, the person intending to set such Fire shall complete, sign, and submit an Application for a Permit to do so to the Chief Fire Official or his or her designate, which Application shall be of a form and content as specified by the Municipality; provided that, if the person intending to set the Fire is not the owner of the lands and premises upon which the Fire is to be set, the Application will also be signed by the owner or owners of such lands and premises or his or her authorized legal representative.
- 3.2 The Applicant, at the time of submission of the Application for the Permit referred to above, shall pay to the Municipality any fee chargeable for such Permit.
- 3.3 The Chief Fire Official or his or her designate shall review the Application for a Permit as referred to above within a reasonable time after its submission and, if necessary, conduct an inspection of the site of the intended Fire and may thereafter issue a Permit to the Applicant and owner or owners of the said lands and premises authorizing the intended Fire to be set and maintained, which Permit shall also specify the terms and conditions under which such Fire is to be set and maintained.
- 3.4 A person to whom a Permit is issued pursuant to this by-law shall set and otherwise maintain such Fire in strict compliance with the terms and conditions of that Permit, this by-law, and any other federal, provincial, or municipal statute, regulation, by-law or other enactment.
- 3.5 If the owner or owners of lands and premises upon which a Fire is to be set and maintained under authority of a Permit issued pursuant to this by-law is not the person to whom such Permit was issued, then such owner or owners, in addition to such Permittee, is responsible for the conduct of such Permittee in relation to any such permitted Fire, including but not necessarily limited to any violation of the terms and conditions of such Permit.

4.0 Administration and Enforcement

- 4.1 This by-law shall be administered and enforced by the Chief Fire Official or his/her designate.
- 4.2 Notwithstanding the prohibitions set forth in Section 2 of this by-law, the Chief Fire Official may revoke any or all Permits issued pursuant to this by-law at any time or otherwise refuse to issue Permits where, in the opinion of the Chief Fire Official, the ability to control any Fire is hampered by the existence of any dangerous condition at or near the proposed site of the said Fire.
- 4.3 The owner or owners of lands and premises are responsible for the conduct of an authorized occupant of such lands and premises in relation to the setting and/or maintaining of Fires upon such lands and premises, including but not limited to setting and/or maintaining of Fires in violation of this by-law.
- 4.4 Any person who violates the provisions of this by-law is guilty of an offence and, upon conviction in a Court of competent jurisdiction, is liable to a fine and any other penalty as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended, or any successor legislation thereto.
- 4.5 In addition to that set forth immediately above, a person who knowingly provides false or misleading information for the purposes of obtaining a Permit pursuant to this by-law is guilty of an offence and, upon conviction in a Court of competent jurisdiction, is liable to a fine and any other penalty as provided for the Provincial Offences Act, R.S.O. 1990, Chapter P. 33, as amended, or any successor legislation thereto.
- 4.6 In addition to any penalty upon conviction as set forth above, if any violation of this by-law results in costs for control, suppression, or extinguishment of any Fire, including but not necessarily limited to the costs of attendance of members of the Central Elgin Fire Department and any related vehicles and equipment, then the person setting or in control of such Fire and/or the owner or owners of the lands and premises upon which such Fire was set, may, at the discretion and instance of the Chief Fire Official, be liable to the Municipality for all such costs as were reasonably incurred in the control, suppression, and extinguishment of such Fire; provided that the minimum such charge shall be in the amount of FIVE HUNDRED DOLLARS (\$500.00); and provided further that any such charge shall be subject to applicable taxes as a fee payable to the Municipality.
- 4.7 In the event that the owner or owners of lands and premises fail to reimburse the Municipality for the costs of control, suppression, and extinguishment of any fire as set forth above, the amount of such costs shall be added to the tax roll for the property upon which the Fire had occurred and thereafter collected in the same manner as municipal taxes.

5.0 Miscellaneous

- 5.1 In the event that any of the provisions of this by-law are deemed or found or declared to be ultra vires by any Court of competent jurisdiction, then such provision shall be deemed to be severable and the remaining terms and provisions of this by-law shall remain in full force and effect.
- 5.2 By-Law No. 194 for the Corporation of the Municipality of Central Elgin is hereby repealed.
- 5.3 The effective date of this by-law shall be the date of final passage hereof.

**READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS
24TH DAY OF MAY, 2005.**

**Donald N. Leitch
Chief Administrative Officer/Clerk**

**David Rock
Mayor**