

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER 49-2004

A BY-LAW TO REGULATE THE SETTING OF OPEN AIR FIRES

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

WHEREAS Council is empowered under the Fire Protection and Prevention Act to pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set; and

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

WHEREAS Council considers excessive 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.

NOW THEREFORE, the Council of the Corporation of the Town of Ajax enacts as follows:

PART I

1. DEFINITIONS

- 1.1 “Barbeque” 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, but does not include devices designed for personal warmth, fire pits or camp fires;
- 1.2 “Corporation” means the Corporation of the Town of Ajax;
- 1.3 “Fire Chief” means the Chief of the Ajax Fire and Emergency Services of the Corporation, or his designate;
- 1.4 “Firefighter” means the Fire Chief and any other person employed in or appointed to the Ajax Fire and Emergency Services and assigned to undertake fire protection services;
- 1.5 “Ground Cover” includes, but is not limited to, leaves, grasses, weeds, tree needles or wood chips on the ground;
- 1.6 “Nuisance” means excessive smoke, smell, airborne sparks or embers that is likely to disturb others;
- 1.7 “Officer” means a duly appointed Municipal Law Enforcement Officer;
- 1.8 “Open Air” means any open place, yard, field or construction area which is not enclosed by a building or structure;
- 1.9 “Open Air Burning” means a fire set in the Open Air or in an Outdoor Fireplace;

- 1.10 “Outdoor Fireplace” means a manufactured non-combustible enclosed container designed to hold a small fire for decorative purposes and may include, but is not limited to, chimineas;
- 1.11 “Owner” means the registered owner or any person, firm or corporation having control over, or possession of any portion of the building or property under consideration and includes the persons in the building or property;
- 1.12 “Permit” means a Permit issued by the Fire Chief to set a fire in the Open Air for a specified time period;
- 1.13 “Person” includes an individual, business, a partnership, or a corporation; and
- 1.14 “Smog Alert” means an alert issued by the Ministry of Environment with respect to air quality.

2. ADMINISTRATION

- 2.1 The Fire Chief shall be responsible for the administration of this By-law.

3. ENVIRONMENT

- 3.1 All Open Air Burning shall comply with the provisions of the Environmental Protection Act, R.S.O. 1990, c. E19, as amended.
- 3.2 No Open Air Burning shall be permitted when a Smog Alert has been issued for the forecast Region of Durham, which includes the Town of Ajax.

PART II

4. FIRES REQUIRING PERMITS

- 4.1 No Person shall set, maintain, or cause to be set or maintained a fire in the Open Air or in an Outdoor Fireplace unless a Permit has been issued by the Fire Chief.
- 4.2 An application for a Permit must be completed on the forms provided by the Ajax Fire and Emergency Services.
- 4.3 Each completed application for a Permit must be submitted to the Ajax Fire and Emergency Services accompanied by the appropriate fee as set out in the applicable Ajax Fire and Emergency Services Fees and Charges By-law.
- 4.4 Except as otherwise provided in the Permit issued under Section 4, a Permit holder shall not set or maintain Open Air Burning or cause Open Air Burning to be set or maintained:
 - 4.4.1 Between sunset and sunrise;
 - 4.4.2 At a distance of less than fifty (50) metres from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article;
 - 4.4.3 If the wind velocity is greater than twenty four (24) kilometers per hour;
 - 4.4.4 That exceeds one square metre in area;
 - 4.4.5 That exceeds one metre in height;
 - 4.4.6 Within five (5) metres of any combustible ground cover;

- 4.4.7 Without a suitable means of extinguishment available while the fire is burning; or
- 4.4.8 If it creates a Nuisance.
- 4.5 In issuing a Permit under Section 4 for Open Air Burning, the Fire Chief may impose any additional requirements or exempt any conditions under subsection 4.4 of this By-law as the Fire Chief considers necessary in the interest of public safety, or to minimize inconvenience to the general public or advisable in the circumstances or to give effect to the objects of this By-law.
- 4.6 The holder of a Permit issued under Section 4 shall:
 - 4.6.1 Maintain constant watch and control over the Open Air Burning from the time of the setting of the fire until the fire is totally extinguished; and
 - 4.6.2 Produce the Permit on demand to a Firefighter or Officer conducting an inspection of the Open Air Burning.
- 4.7 **Exception - Barbeques**
 - 4.7.1 Despite Section 4.1, permission is not required from the Fire Chief for the use of a Barbeque using approved fuels to cook food. Barbeques being used to cook food shall be attended, controlled, supervised at all times and the fire extinguished immediately upon completion of the cooking process.
- 4.8 **Barbeques - Approved Fuels**
 - 4.8.1 The only approved fuels for use in Barbeques are commercially produced charcoal, briquets or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

PART III

5. OFFENCE AND ENFORCEMENT

- 5.1 A Person is guilty of an offence if the Person:
 - 5.1.1 Furnishes false information in the application for a Permit;
 - 5.1.2 Contravenes any provision of this By-law; or
 - 5.1.3 Contravenes an order issued under subsection 7.4 of this Bylaw.
- 5.2 Any Person who is contravenes the provisions of the By-law is guilty of an offence and upon conviction shall be liable to the penalties imposed pursuant to the Fire Protection and Prevention Act, 1997, S.O. 1997, c 4, as amended for each offence, exclusive of costs.
- 5.3 A Permit may be revoked by the Fire Chief or Officer if the Permit holder fails to comply with the requirements of the Permit and/or any other provision of this By-law.
- 5.4 A Firefighter or Officer may order a fire to be extinguished immediately if the fire:
 - 5.4.1 Is not set in compliance with this By-law; or
 - 5.4.2 Is determined upon inspection by the Firefighter or Officer to constitute a safety hazard or concern.

6. VALIDITY

6.1 If a court of competent jurisdiction declares any provision or a part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council that the remainder of the By-law shall continue to be in force.

7. REPEAL

7.1 Town of Ajax By-law 77-2000, is repealed.

7.2 Notwithstanding subsection 9.1, all permits issued pursuant to By-law 77-2000, shall remain in full force and effect during the period for which they have been issued, unless the permit is revoked, forfeited, or suspended for any reason aside from the repeal of By-law 77-2000.

7.3 Any penalty incurred, any investigation, legal proceeding or remedy under By-law 77-2000, may be continued to be enforced as if By-law 77-2000, had not been repealed.

READ a first and second time this
Twenty day of April, 2004.

READ a third time and passed this
Twenty-Sixth day of April, 2004.

Mayor

Clerk