

THE CORPORATION OF THE TOWNSHIP OF SOUTH STORMONT
BY-LAW No. 2007-93

BEING a by-law for prescribing the time for setting fires in the Township of South Stormont and the precautions to be observed.

WHEREAS the *Municipal Act, 2001*, S. 5 (1) provides that the powers of a municipal corporation are to be exercised by its council;

AND WHEREAS the *Municipal Act, 2001*, S. 5 (3) provides that the powers of every council are to be exercised by by-law;

AND WHEREAS the *Fire Protection and Prevention Act 1997*, as amended, Section 7.1 (a) and (b) authorizes Council to pass by-laws regulating fire prevention, including the prevention of the spreading of fires and regulating the setting of open air fires, including the times during which open fires may be set;

AND WHEREAS the *Fire Protection and Prevention Act 1997*, as amended, Section 7 (4) of authorizes Council to appoint officers to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND WHEREAS Section 446 of the *Municipal Act 2001* authorizes Council to recover the costs of terminating a danger under this by-law by any or all of the methods provided for in the *Municipal Act 2001*;

AND WHEREAS Council of the Township of South Stormont deems it expedient to pass a by-law for the restricting of open burning within the municipality.

NOW THEREFORE the Council of the Corporation of the Township of South Stormont enacts as follows:

1. Definitions
"Chief Fire Official" shall mean the Chief of the fire department providing service to their respective fire area of the Corporation of the Township of South Stormont;

"Contained" shall mean any fire pit, place, cement box or stone material;

"Corporation" shall mean the Corporation of the Township of South Stormont;

"Council" shall mean the Council of the Corporation of the Township of South Stormont;

"Fire Management Committee" shall mean a committee comprised of the Fire Chiefs, a Member of Council and a staff Member, created to manage the fire Departments within the Township of South Stormont;

"Natural Materials" shall mean wood or its by-products and vegetation and, any substance or thing which is not a result of a manufacturing process, chemical treatment or manual or mechanical construction. Vegetation shall include all plants and the products thereof, live or dead, standing, fallen, windblown, cut, broken or harvested, natural or disturbed in use or as waste, rubbish, refuse or debris, stump, stubble or otherwise.

"Officer" shall mean a Chief Fire Official or By-law Enforcement Officer or other enforcement officer duly appointed by a By-law of the Township to administer and enforce the provisions of this By-law;

"Open" means not contained within a fireplace or stove located within a dwelling or other building accessory thereto, and installed in accordance with applicable provincial standards;

"Owner" means the registered Owner of lands as designated in the latest revised assessment roll prepared by the Municipal Property Assessment Corporation;

"Person" includes any physical or corporate entity, partnership or any association and the heirs, executors, administrators, successors and assigns or other legal representation thereof to whom the context may apply; and

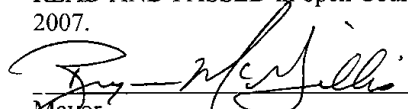
"Recreational Fire" shall mean the burning of clean dry seasoned firewood for cooking, heating, enjoyment or similar purposes. Burning must be contained within a non-combustible container or fire pit that must not exceed .75m (2 ½ feet) in diameter and .75m (2 ½ feet) in height; and

"Tenant" means a Tenant as defined in the Tenant Protection Act and includes a corporation or partnership.

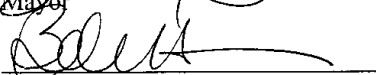
2. No Person shall start, or allow to continue burning, an open fire of any description unless:
 - a) the materials being burned in the fire consist of only wood or by products of wood for a recreational fire or natural materials for a contained fire or fire located on farm premises;
 - b) the fire is contained or at the discretion of the Chief Fire Official or designate;
 - c) the materials being burned are not received by the Owner or Tenant of the lands where the fire is located in exchange for a fee;
 - d) the smoke caused by such fire does not cross any highway in such a way as to create a hazard for vehicular traffic or pedestrians and does not create a nuisance for anyone on abutting lands;
 - e) the fire is not otherwise in contravention of the provisions of this by-law, the regulations passed there under or any other by-law of the Corporation;
 - (f) the fire is supervised at all times by a competent Person who is eighteen (18) years of age or older;
 - (g) sufficient resources available to maintain control of the fire at all times; and
3. No Owner or Tenant shall allow open burning upon property owned or rented by them unless such burning is in compliance with this by-law.

4.
 - a) The Fire Management Committee may, from time to time, recommend to Council the passing of regulations hereunder for the prescribing of dates, times or locations where open burning and/or recreational fires are prohibited.
 - b) Council may, upon a recommendation from the Fire Management Committee impose regulations prohibiting open burning and / or recreational fires.
 - c) No person shall burn when Council has prohibited burning by regulation.
 - d) The Corporation hereby authorizes the attendance of such Officers as may be required to control or extinguish fires not in accordance with this by-law. Should the Corporation extinguish, demolish or repair property or, take any or all measures to terminate a danger or unauthorized activity, the Corporation may recover all of the expenses incurred in respect thereof by any or all of the methods provided for in Section 446 of the *Municipal Act, 2001* in addition to any other penalty prescribed herein.
5. Any Owner, Tenant or other Person who causes, permits or allows to continue any fire not in accordance with this by-law or its regulations shall be subject to prosecution pursuant to the *Provincial Offences Act, R.S.O. 1990*, Chapter P.33, and shall be subject to a fine as follows:
 - a) for a first conviction, of not less than \$50.00 and not more than \$5,000.00;
 - b) for a second or subsequent conviction, of not less than \$100.00 and not more than \$10,000.00.
6. The Corporation may from time to time appoint Officers and such other staff as may be necessary to carry out the functions of this By-law, including the enforcement thereof.
7. It is hereby declared that each of the foregoing provisions of this By-law is severable and that, if any of the provisions of this By-law should for any reason be declared invalid by any Court, it is the intention and desire of this Council that each of the then remaining provisions hereof shall remain in full force and effect.
8. This By-law is not to be construed at any time in such a fashion as to hold the Corporation or its Officers liable for failing to ensure that persons comply with the provisions of this By-law.
9. That By-law Nos. 35-1999, 90-2004 and 25-2007 are hereby repealed.

READ AND PASSED in open Council, signed and sealed this 14th day of November, 2007.



Mayor



Clerk