

## THE CORPORATION OF THE TOWNSHIP OF EMO

### BY-LAW NO. 2019-13

---

A by-law to regulate open air burning within the Township of Emo.

---

#### Definitions

1. In this By-law:

“**Act**” means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4 Consolidation Period: From December 6, 2018;

“**Approved Fire Pit**”

- a) a pit dug into the ground or made from stones, masonry, steel or other fire resistant material used for the purposes of containing a recreational fire of which the interior dimensions shall be no larger than one metre by one metre (3 feet by 3 feet); and,
- b) above-ground pre-manufactured chimeneas and other like receptacles designed and constructed for the purposes of containing a small Recreational Fire.

“**Barbeque**” means a gas or propane powered appliance that is designed and intended for the sole purpose of cooking food in the open air; and includes a hibachi but does not include devices designed for personal warmth, fire pits or camp fires;

“**Building**” means:

- a) a structure occupying an area greater than ten square metres (107.639 square foot) consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- b) a structure occupying an area of ten square metres (33 square foot) or less that contains plumbing, including the plumbing appurtenant thereto; and,
- c) structures designated in the *Building Code*, as amended;

“**Chief Fire Official**” means the appointed Fire Chief of the Township under provisions of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4 Consolidation Period: From December 6, 2018, as amended; for any or all Fire Department catchment areas as designated by Council, or his or her designate’

“**Council**” means the Council of the Corporation of the Township of Emo;

“**Fire Ban**” means a partial or total ban against any Open-Air Fire in the Township as declared by the Chief Fire Official;

“**Firewood**” means clean, dry wood that has not been treated, painted or otherwise exposed to toxic material, cut to a maximum of 60 cm (24 inches) in length so as to easily situated in an Approved Fire Pit;

“**Flying Lantern**” means hot air balloon made out of paper, or other material, commonly known as Chinese lanterns, sky lanterns, wish lanterns, Hawaii lanterns or Konming lanterns;

“Municipal Law/By-Law Enforcement Officer” means a person appointed by the Township under s. 15 of the *Police Services Act, R.S.O 1990, c P.15*, as amended Consolidation Period: From March 26, 2019;

“**Open Air Fire**” means any fire that takes place outside of a Building or structure;

**“Agricultural/Industrial Burn”** means any burn subject to the Agricultural/Industrial Burn portion of this bylaw.

**“Incinerator”** means an enclosed device constructed entirely of non-combustible material and is noted under s. 20, g. of “Open Air Burning By-Law” By-law No. 2019-13.

**“Owner”** means the registered owner or occupant of a property;

**“Permit”** means a permit issued by the Chief Fire Official to permit a person to set, light, ignite and maintain an Open Air Fire;

**“person”** means an individual or corporation;

**“Prohibited Material”** means materials that are, but not limited to, automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, asphalt, shingles, rubber, construction materials, insulation, and flammable or combustible liquids or accelerants;

**“Recreational Fire”** means an Open Air Fire that complies with the provisions of the section 19 of this “Open Air Burning By-Law” By-Law No. 2019-13.

**“Settlement Area”** means the Town of Emo.

**“Township”** means the Corporation of the Township of Emo;

**“Windrow”** means a line of materials heaped up by person or machine for the purpose of an Open Air Fire.

### **General Prohibition**

2. No person shall set, light, ignite, or maintain an Open-Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, at any time, without first obtaining a Permit.
3. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, at any time, in the Settlement Area, except if it is a Recreational Fire.
4. No person shall offer for sale, set, light, ignite or maintain a Flying Lantern, or permit a Flying Lantern to be sold, set, lit, ignited or maintained, at any time.
5. No person shall burn or permit to be burnt any of the following materials, but not limited to, automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, asphalt, shingles, rubber, construction materials, wood material that has been treated or painted, insulation and flammable or combustible liquids or accelerants.
6. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, light, ignited or maintained, no sooner than 2 hours before sunset, and the fire must be extinguished no later than 2 hours after sunrise, unless such Open Air Fire is a Recreational Fire in an Approved Fire Pit or an Approved Agricultural/Industrial Burn Plan.
7. No person shall leave an Open Air Fire unattended or unsupervised at any time.
8. No Person shall light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, in an area that could potentially endanger any Buildings or structures or any persons located nearby, in or occupying those Buildings or structures.
9. No person shall use, or cause to be used, any Barbeque of any kind on any balconies of multi-residential building.

10. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, which creates a nuisance for any person such as, but not limited to:
- a) excessive smoke or odour;
  - b) a decrease in visibility on roads or highways; or,
  - c) a rapid spread of fire through grass, brush or any wooded area.
11. No person shall set, light, ignite or maintain an Open Air Fire, or permit an Open air Fire to be set, lit, ignited, or maintained, during a Fire Ban or *Restricted Fire Zone*.

### **Fire Bans**

12. The Chief Fire Official may declare a Fire Ban in the Township at anytime.

### **Permits**

13. Following the receipt of an application for a Permit, the Chief Fire official may approve or refuse a Permit with such conditions as necessary, as determined by the Chief Fire Official and every person who receives a permit shall comply with the conditions of the permit.
14. The Chief Fire Official may suspend or revoke a Permit at any time:
- a) For non-compliance with this by-law;
  - b) For non-compliance with one or more of the conditions of the Permit; or
  - c) If a dangerous condition exists at or near the proposed site for the Open Air Fire.
15. Permits are non-transferable.
16. All Permits shall be deemed to be suspended during a *Municipal Fire Ban* or *during a Restricted Fire Zone declared by the Ontario Ministry of Natural Resources and Forestry*.
17. An application for a Permit under this by-law shall be in the form prescribed by the Chief Fire Official.

### **Open Air Fire Regulations.**

18. All Open-Air Fire's require the applicable Burn Permit, which is the newest, and most current burn permit as of the permit issue date.
19. In order to obtain a Permit, the property on which the Open-Air Fire is to occur must comply with the following, except if it is a Recreational Fire or Agricultural/Industrial Burn or Chimenea which are subject to the amendments noted under each section.
- a) The property must be outside of any Settlement Areas;
  - b) The property must have a lot size greater than 0.4 hectare (1 acre)
  - c) The sole purpose of the Open Air Fire must be the disposal of materials other than Prohibited Materials.

20. A person who obtains a Permit, shall comply with the following regulations at all times, except if the Permit relates to a Recreational Fire or Agricultural/Industrial Burn:
- a) Open Air Fires shall not be set, lit, ignited or maintained, within 30 meters (100 feet) of any Building or structure, grass, grain field, bush, or wood lot;
  - b) Open Air Fires shall not exceed 2 meters (6.5 ft) in diameter, or an area of 2 meters x 2 meters (6.5 ft x 6.5 ft);
  - c) The stacked height of the materials to be burned in an Open Air Fire shall not exceed 2 meters (6 feet);
  - d) Open Air Fires shall not be set, lit, ignited or maintained, if winds exceed 16 km/h (10mph);
  - e) Prior to setting, lighting, or igniting an Open Air Fire, the person who obtained the Permit shall notify the Chief Fire Official or Fire Warden or designate; and,
  - f) Appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plows) shall be on-hand at all times during the preparation of the Open Air Fire, while the Open Air Fire is underway, and until the Open Air Fire is fully and completely extinguished.
  - g) A responsible person is available to attend the fire until extinguished
  - h) Only one pile shall be burned at a time.
  - i) As well as the portions from section/subsection 20. a, d, f. g. of By-law No. 2019-13 “Open Air Burning By-Law” an Incinerator must meet the following criteria: be an enclosed device constructed entirely from non-combustible materials, at least 10 meters (33 feet) from any forest, woodland, combustible materials as well as the outlet of the Incinerator being covered with a screen having a mesh size of not more than five millimeters (0.19685 inches) and the Incinerator is situated on bare rock or bare mineral soil.
  - j) As well as the portions from section/subsection 20. d, e, f, g. of By-law No. 2019-13 “Open Air Burning By-Law” burning of grass and leaves must meet the following criteria: area to be burned is no greater than 1 hectare (2.54 acres); the length of the flaming edge is less than 30 metres.
21. A person who obtains a Permit for a Recreational Fire shall comply with the following regulations at all times:
- a) A Recreational Fire is permitted within Settlement Areas;
  - b) Recreational Fires must be in Approved Fire Pits;
  - c) Recreational Fire shall not exceed 1 meter (3 feet) in diameter, or an area of 1 meter by 1 meter (3 feet by 3 feet)
  - d) The stacked height of materials being burned in a Recreational Fire shall not exceed 1 meter (3 feet) in height;

- e) Recreational Fires may only be used for warmth or the cooking of food;
- f) Only Firewood may be used as the combustible material in a Recreational Fire;
- g) Recreational Fires shall not be set, lit, ignited or maintained, within 4 meters (13 feet) of any Building or structure, grass, grain field, bush, or wood lot;
- h) Recreational Fires shall not be set, lit, ignited or maintained if winds exceed 10 mph (16 km/h); and,
- i) Appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plows) shall be on-hand at all times during the preparation of the Recreational Fire, while the Recreational Fire is underway, and until the Recreational Fire is fully and completely extinguished;
- j) A responsible person is available to attend the fire until extinguished.

22. A person who obtains a Permit for a Chimenea shall comply with the following regulations at all times:

- a) shall not be set, lit, ignited or maintained, within 4 meters (13 feet) of any Building or structure, grass, grain field, bush, or wood lot and shall not be ignited or maintained if winds exceed 10 mph (16 km/h); and;
- b) Appropriate extinguishing agents (e.g. water hose, sand, and/or fire extinguishers) shall be on-hand at all times during the preparation of the Chimenea Fire, while the Chimenea Fire is underway, and until the Chimenea Fire is fully and completely extinguished;
- c) Must have a spark arrester, as per the Ontario Building Code.
- d) Only permitted to burn properly seasoned wood products.
- e) Must be placed on a non-combustible base.
- f) Must be supervised at all times during use.

23. A person who obtains a Permit for an Agricultural/Industrial Burn shall comply with the following regulations at all times:

\*Note all portions of s. 19 of By-Law No. 2019-13 "Open Air Burning By-Law" go for any Agricultural/Industrial Burn.

- a) The Person Responsible must do everything possible to avoid building piles in muskeg areas;
- b) Eliminate as much dirt from the roots and do not pack the windrows tight. (Air circulator around the piles/windrows is necessary to aid in combustion and subsequent consumption of fuels;
- c) Ensure that windrows are not longer than 30 meters (100 feet) and no wider than 3 meters (10 feet);

- d) Ensure that a minimum of 10 meters (33 Feet) break is created between the ends of each windrow;
- e) Ensure that all windrows/piles are 25 meters (75 feet) from standing timber & 35 meters (115 feet) from any structures
- f) Ensure that a minimum of 15 meters (50 feet) bare mineral soil guard is created around all windrows/piles
- g) The approved current municipal burn plan form must be filled out in its entirety by the applicant.
- h) Appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plows) shall be on-hand at all times during the preparation of the fire, while the fire is underway, and until the Fire is fully and completely extinguished.
- i) Agricultural/Industrial Fires shall not be set, lit, ignited or maintained, if winds exceed 16 km/h (10mph);
- j) Prior to setting, lighting, or igniting an Agricultural/Industrial Fire, the person who obtained the Permit shall notify the Chief Fire Official or Fire Warden or designate; and,

24. This by-law shall not apply to:

- a) The Fire Department of the Township for the purposes of live fire training exercises and operational requirements;
- b) The Corporation of the Township of Emo, where authorized by the Chief Fire Official;
- c) The Ministry of Natural Resources, where authorized by the Chief Fire Official.

### Inspection

25. A Police Officer, Municipal By-Law/Law Enforcement Officer, Building Official, Chief Fire Official or designate may enter upon land and/or into structures at any reasonable time to inspect the land and/or structures to determine whether this by-law is being complied with.

26. Prior to a Permit being issued under this by-law, the Chief Fire Official may require an inspection of the property for which an Open Air Fire Permit is being applied and/or inspect the materials that are proposed to be burned.

### Order to Discontinue Activity

27. If the Township is satisfied that a contravention of this by-law has occurred, the Township may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity.

28. An order made under s.27 of this “Open Air Burning By-Law” By-law No. 2019-13 shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
- b) the date by which there must be compliance with the order.

29. Any person who contravenes an order under s. 27 of this “Open Air Burning By-Law” By-law No. 2019-13 is guilty of an offence.

### **Work Order**

30. If the Township is satisfied that a contravention of this by-law has occurred, the Township may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to correct the contravention.

31. An order under s. 30 of this “Open Air Burning By-Law” By-law No. 2019-13 shall set out:

- a) Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - b) The work to be done to correct the contravention and the date by which the work must be done.
32. An order under s. 30 of this “Open Air Burning By-Law” By-law No. 2019-13 may require work to be done even though the facts which constitute the contravention of this by-law were present prior to the date on which this by-law came into force.

33. A person who contravenes an order under s. 30 of this “Open Air Burning By-Law” By-law No. 2019-13 is guilty of an offence.

### **Remedial Action**

34. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the Township may, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person’s expense.

35. The Township may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

36. The costs in s. 34 of this “Open Air Burning By-Law” By-law No. 2019-13 shall include interest calculated at a rate of 15 per cent or such lesser rate as may be determined by the Township, calculated for the period commencing on the day the Township incurs the costs and ending on the day the costs, including the interest, are paid in full.

37. The amount of costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of

all costs that are payable at the time the notice is registered plus interest accrued at the rate established under s. 36 "Open Air Burning By-Law" By-law No. 2019-13 to the date the payment is made. Upon receiving the payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office.

### **Enforcement**

38. This by-law may be enforced by A Police Officer, Municipal By-Law/Law Enforcement Officer, Building Official, Chief Fire Official or designate.

### **Penalties**

39. Any person who contravenes a provision of this by-law is guilty of an offence and, upon conviction, is liable to a fine and as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33 Consolidation Period: From October 17, 2018.

40. When a person has been convicted of an offence under this by-law, any court of competent jurisdiction thereafter may, in addition to any other penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

### **Fees & Charges**

41. Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.

42. Permit application fees may be charged for each Permit in accordance with the Townships current Schedule "A" Fire & Emergency Services.

43. Fees noted in Schedule "A" Fire & Emergency Services & the current Automatic Aid Appendix "A" will be applied where required. The higher fee if applicable will apply.

44. (a) Every person shall extinguish a fire when ordered to do so by the Chief Fire Official;

(b) Every person who contravenes this by-law, or who fails to extinguish an Open Air Fire once ordered to do so by the Chief Fire Official, shall, in addition to any penalty provided herein, be liable to the Township for all expenses incurred for the purpose of investigating, controlling and extinguishing the Open Air Fire which includes all expenses relating the vehicles, wages, contractors, Ministry of Natural Resources, or other firefighting costs, and such expenses may be recovered by official Letter of Contravention with 30 days to pay, in a Court action or in a like manner as municipal taxes.

### **Short Title.**

45. This by-law shall be known as the "Open Air Burning By-Law"

### **Severability**



46. If a Court of competent jurisdiction should declare any section of this by-law to be invalid, such section or part of a section shall not be construed or having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

**Coming into Force**

47. This by-law shall come into force and effect upon the date in which it is passed by Council.

**Repeal**

48. The Township of Emo By-law No. 2016-29 shall be repealed upon the passing of this by-law

Read, Enacted, Signed and Sealed this 14<sup>th</sup> day of May, 2019.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
CAO/Clerk-Treasurer