

THE CORPORATION OF THE TOWNSHIP OF HOWICK

BY-LAW NO. 35 – 2006 (AMENDED)

A BY-LAW REGULATING FIRE PREVENTION, INCLUDING THE PREVENTION OF THE SPREADING OF FIRES AND THE REGULATING OF OPEN AIR FIRES IN THE TOWNSHIP OF HOWICK.

WHEREAS Section 7.1 of the *Fire Protection and Prevention Act as amended*, authorizes Municipal Councils to pass by-laws regulating fire prevention, including the prevention of the spreading of fires, regulating the setting of open air fires, and establishing the times during which open air fires may be set,

AND WHEREAS the *Municipal Act, 2001, Section 128* prescribes that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisance,

AND WHEREAS the *Municipal Act, 2001, Section 130* permits a municipality to regulate matters for purposes related to the health, safety and well-being of the inhabitants,

AND WHEREAS Council of the Township of Howick desires to implement a by-law in the interests of fire prevention and safety, preservation of public health and well-being, and prevention of public nuisance;

NOW THEREFORE the Council of the Corporation of the Township of Howick **enacts as follows:**

1. DEFINITIONS

For purposes of this by-law, the following definitions shall apply:

- 1.1 **“Chief Fire Official(s)”** shall mean the Fire Chief of the Wingham Area Fire Department and/or the Fire Chief of the Clifford Station of the Town of Minto Fire Department, or their alternates, within their respective designated response areas.
- 1.2 **“Contained”** means in an apparatus, container, or physical construction (such as a pit), that is capable of controlling the spread of the fire.
- 1.3 **“Fire”** means the burning or combustion of materials in the open air, but shall not include any fire entirely contained in an apparatus specifically designed and constructed or manufactured for the purpose of barbecuing food for consumption.
- 1.4 **“Municipality”** shall mean the Corporation of the Township of Howick.
- 1.5 **“Open Air”** means any open place, yard, field or area that is not enclosed by a building or structure.
- 1.6 **“Prohibited Materials”** includes (but is not limited to) materials such as: vehicle bodies; tires; oil; grease; paint; rags; plastics; wire; asphalt shingles; rubber; treated, synthetic, or any kind of materials likely to cause noxious or obnoxious fumes; insulation; flammable or combustible liquids or accelerants; household garbage; any recyclable material.
- 1.7 **“Recreational Fire”** means a fire used for warmth or cooking food, provided such fire is contained (as defined in section 1.2 above) and confined to an area no larger than 1 meter in diameter.
- 1.8 **“Rural Areas”** shall include all areas within the Township of Howick exclusive of the areas designated **“Urban”** as defined in section 1.10 below.
- 1.9 **“Structure”** shall mean anything that is erected, built, constructed or parts joined together or any such erection fixed to or supported by the ground.
- 1.10 **“Urban Areas”** shall mean all areas in the Township of Howick designated as “settlement” areas for residential, recreational, commercial, industrial, institutional or development uses, including “villages”, “hamlets”, “mobile home parks”.

2. PROHIBITIONS

- 2.1 No person shall set a fire or allow a fire to burn except in accordance with the provisions of this by-law and all other applicable municipal, provincial and federal laws and regulations.
- 2.2 No person shall set a fire or allow a fire to burn in the open air in any “urban area” within the Township of Howick, except for a contained recreational fire (as defined in section 1.7 above).
- 2.3 No person shall set a fire or allow a fire to burn in the open air in any “rural area” within the Township of Howick if the size of such fire will be greater than three (3) metres in diameter, without first notifying the Chief Fire Official of the relevant response area.
- 2.4 No person shall set or allow an uncontained fire to burn, such as a grass fire.
- 2.5 No person shall set or allow a fire to burn during a fire ban declared by the Chief Fire Official.
- 2.6 No person shall burn prohibited materials as defined in Section 1.6.
- 2.7 No person shall set or allow a fire to burn on any lands used for institutional, industrial or commercial purposes.
- 2.8 No person shall set or allow a fire to burn on a public highway, road allowance or any land that is owned by the municipality, except fires set by and under the control of municipal employees in the performance of duties for the Township.
- 2.9 No person shall set or allow a fire to burn on any land or premises without the consent of the owner of such land or premises.
- 2.10 No person shall set or allow a fire to burn on any land or premises where construction of a building or structure is ongoing.
- 2.11 No person shall set or allow a fire to burn when:
 - a) the direction or intensity of the wind may cause smoke to decrease visibility on any highway, road or street;
 - b) the direction or intensity of the wind may cause the spread of fire;
 - c) said fire may cause odour or smoke to such an extent or degree as to result in discomfort to persons, or hazard to health, or loss of enjoyment or normal use of property;
 - d) a smog alert has been issued for the area;
 - e) a fire ban has been declared by the Chief Fire Official.

3. CRITERIA

- 3.1 No person shall set or allow a recreational fire to burn where said fire is located less than five (5) metres from any building, structure, hedge, tree, fence, highway or vehicular right-of-way, overhead wire or combustible material of any kind.
- 3.2 No person shall be set or allow a fire, other than a Recreational Fire, to burn where said fire is located less than fifteen (15) metres from any building, structure, hedge, tree, fence, highway or vehicular right-of- way, overhead wire or combustible material of any kind.
- 3.3 No person shall set or allow a fire, other than a recreational fire, to burn between sunset on the evening of any day and sunrise on the following day. Open air burning as permitted by this by-law is allowed during daylight hours only.
- 3.4 Any person attending to a fire shall ensure that an adequate means of extinguishing the fire is available at the fire site while the fire is burning.
- 3.5 Any person who sets or allows a fire to burn shall ensure that the fire remains under the constant supervision and control of a person 16 years of age or over, from the time of lighting until the fire is completely extinguished.

4. PENALTY AND ENFORCEMENT

- 4.1 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act* and set out in the attached Schedule A, which is composite of and an integral part of this by-law.
- 4.2 Any person, who is in default with respect to any provision of this by-law, and whose action results in the summons and response of the Fire Department, shall therefore be liable for any expenses levied on the municipality by the fire department as a consequence of the default, and such expenses may be recovered by legal action, or in a like manner as taxes as provided in *Section 398(2) of the Municipal Act, 2001*.

4.3 The Chief Fire Official or his designate or the By-Law Enforcement Officer appointed to enforce this by-law is authorized to order any person to extinguish any fire when there is a breach of any provision of this by-law or any regulations of the Ontario Fire Code, or where in his/her opinion there is a danger of such fire spreading or otherwise endangering life or property.

5. ENACTMENT

5.1 All by-laws previously enacted relative to regulating fires in the Township of Howick are hereby repealed.

5.2 This by-law shall come into force and effect upon third and final reading thereof.

READ A FIRST AND SECOND TIME this 12th, DAY OF DECEMBER 2006.

REEVE

CLERK

READ A THIRD TIME AND FINALLY PASSED this 12th DAY OF DECEMBER, 2006.

REEVE

CLERK

CORPORATION OF THE TOWNSHIP OF HOWICK

**Schedule "A" to By-Law No. 35-2006
REGULATING FIRE PREVENTION**

Part 1 Provincial Offences Act

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine Without Owner's Consent
1.	Setting or allowing fire to burn in contravention of by-law.	Section 2.1	\$200.00
2.	Setting an Uncontained Fire	Section 2.4	\$200.00
3.	Setting or allowing fire to burn during a declared fire ban.	Section 2.5	\$200.00
4.	Burning prohibited materials	Section 2.6	\$200.00
5.	Setting or allowing fire to burn on institutional, industrial or commercial property.	Section 2.7	\$200.00
6.	Setting or allowing fire to burn on municipally-owned property.	Section 2.8	\$200.00
7.	Failure to obtain permission of owner.	Section 2.9	\$200.00
8.	Setting fire on land or premises where construction of a building or structure is ongoing.	Section 2.10	\$200.00
9.	Setting fire where smoke decreasing visibility on highway, road, or street.	Section 2.11(a)	\$200.00
10.	Setting fire where wind conditions pose danger of spreading fire.	Section 2.11(b)	\$200.00
11.	Setting fire where odour or smoke causing health hazard or discomfort.	Section 2.11(c)	\$200.00
12.	Setting fire during smog alert in area.	Section 2.11(d)	\$200.00
13.	Setting fire during declared fire ban.	Section 2.11(e)	\$200.00
14.	Recreational fire closer than 5 m to combustible material.	Section 3.1	\$200.00
15.	Other fire closer than 15 m to combustible material.	Section 3.2	\$200.00
16.	Allowing fire to burn between sunset and sunrise	Section 3.3	\$200.00
17.	Failure to provide adequate means of extinguishing fire	Section 3.4	\$200.00
18.	Failure to provide constant supervision of fire	Section 3.5	\$200.00

NOTE: The general penalty provision for the offences listed above is Section 4.1 of By-Law No. 35-2006, a certified copy of which has been filed.

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