

CORPORATION OF THE TOWNSHIP OF ASPHODEL-NORWOOD  
BY-LAW 2007-45



***Being a By-Law to regulate Open Air Burning in the Township of Asphodel-Norwood***

**WHEREAS** Section 8 of The Municipal Act, S.O. 2001, c. 25, as amended, provides municipalities with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

**WHEREAS** Section 9 of The Municipal Act, S.O. 2001, c. 25, as amended, confers broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues; and

**WHEREAS** Section 7.1(1)(b) of the Fire Protection and Prevention Act as amended, provides that council of municipalities may pass by-laws for prescribing the times that fires may be set and the precautions to be observed by persons setting out fires; and

**WHEREAS** the Council of The Corporation of The Township of Asphodel-Norwood deems it advisable to do so.

**NOW THEREFORE** the Council of The Corporation of the Township of Asphodel-Norwood hereby enacts as follows:

**Part 1**

**DEFINITIONS**

**Township – defined**

“Township” shall mean all properties within the defined boundaries of the Township of Asphodel-Norwood including the former Village of Norwood and the former Township of Asphodel.”

**Fire Chief – defined**

“Fire Chief” shall mean the Fire Chief for the Township of Asphodel-Norwood and members of the Asphodel-Norwood Fire Services acting under the direction of the Fire Chief.

**Occupant – defined**

“occupant” shall mean the person having effective control over or apparent possession of any property or the relevant portion thereof, and for the purposes of this By-law, a mortgagee-in-possession of property, or a receiver and manager, personal representative or trustee in bankruptcy who has taken possession of that property shall be deemed to have effective control over the property.

**Owner – defined**

“owner” shall mean the registered owner of the property.

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**Property – defined**

“property” shall mean any public or private land, building or structure or other real property within the Township of Asphodel-Norwood.

**Permit holder – defined**

“permit holder” shall mean the person, organization or group that has been granted a permit by the Fire Chief.

**Barbeque – defined**

“barbeque” shall mean a portable or fixed device including a hibachi, 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, chimney’s or camp fires.

**Burn Barrels – defined**

“burn barrels” shall mean metal drums and/or similar containers which are not incinerators and are not permitted for burning of materials in the Township of Asphodel-Norwood.

**Incinerator – defined**

“incinerator” is a built device for disposal of wood and wood by-products which shall be designed and built in compliance with Sections 2.6.3 of the Ontario Fire Code and 6.2.6 of the Ontario Building Code.

**Part 2**

**ADMINISTRATION**

**2.1 Fire Services – Exempt**

The Township of Asphodel-Norwood Fire Services shall be exempt from the provisions of this by-law with respect to open air burnings set for the purposes of educating and training individuals.

**2.2 Administration**

This by-law shall be administered by the Fire Chief.

**Part 3**

**GENERAL PROVISIONS**

**3.1 Open Air Burning – Regulations**

No person shall conduct an open air burning within the boundaries of the Township of Asphodel-Norwood unless permission has been given by the Fire Chief.

**3.2 Permission - Recreational Burning**

With respect to Section 3.1, permission is granted by the Fire Chief for open air burnings that are contained within non combustible containers or pits specifically designed for open air burnings.

The following regulations shall apply with respect to open air burnings for recreational purposes:

- (a) no materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood may be burned;
- (b) recreational campfires open burnings shall be confined to non-combustible containers, commercial chimineas or to a pit shall be contained in non-combustible containers and must be kept to a maximum 0.9m (3') by 0.9m(3') and flames shall be contained within these dimensions and not exceed 0.9m (3') in height from the bottom of the pit area.;
- (c) open burning shall be conducted in such a manner as to preclude the escape from of combustible matter such as sparks and ash from the fire;
- (d) the dimensions of the fuel being used for burning shall not be greater than the size of the container or fire pit and shall be totally confined within the container or pit at all times;
- (e) an open air burning shall be confined to a location that provides for a minimum distance of three (3) metres (9.8') feet in all directions from adjacent properties;
- (f) open air burnings shall be confined to a location that provides for a minimum distance of three (3) metres (9.8') feet from combustible structures or objects;
- (g) an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use;
- (h) open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the open burn site is vacated;
- (i) open air burnings are not permitted when wind speed could contribute to rapid spread of fire or at times when a smog alert or burning ban has been declared.

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The appropriate Federal, Provincial and/or Municipal Government agency shall be used as a source for this information;

- (j) the owner, occupant or permit holder must take steps to ensure that adjacent properties are protected and that the by-products of open air burnings do not have a negative impact on persons, pets or the environment;

**3.3 Exception – barbeques**

With respect to 3.1, permission is not required from the Fire Chief for the use of a barbeque to cook food. Barbeques being used to cook food shall be attended controlled and supervised at all times.

**3.4 Barbeques – approved fuels**

The only approved fuels for use in barbeques are commercially produced charcoal, briquettes or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

**3.5 Approval non-compliance recreational burning**

An owner or occupant may make application to the Fire Chief for a variance with respect to 3.2(d), 3.2(g) or 3.2 (h). Based on the results on an on-site inspection, the Fire Chief may issue a permit for recreational burning to allow for open burning on residential properties that do not meet the regulations as stated in 3.2(d), 3.2(g) or 3.2(h) of this by-law. Should the circumstances under which the approval was given change, the permit will no longer be valid. The Fire Chief may attach such conditions as deemed appropriate to any permit granted for such open air burning as he 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, and every permit holder shall comply with those terms and conditions.

**3.6 Permit – special events**

All persons seeking permission to hold a special event involving an open air burning that is not a recreational burning as per section 3.2 and does not employ the use of a barbeque shall apply to the Fire Chief for a permit to have an open fire at such an event. Application shall be made at least one week prior to the proposed date of the event on a form supplied by the Fire Chief and may be accompanied by the applicable fees as set out in Schedule “A” to this by-law. The Fire Chief may issue a permit to allow a special event to reoccur over an extended period of time. The Fire Chief may issue a permit for a special event to allow for open air burning from 10:00 a.m. to Midnight. Registered not-for-profit charitable organizations may make application to the Fire Chief requesting a permit fee exemption and the Fire Chief may authorize and exemption.

**3.7 Permit – considerations**

Prior to granting a permit to hold an open air burning for a special event, the Fire Chief will give consideration to the location of the proposed event, the size of the proposed fire, the safety measures proposed, the supervision arrangements proposed, the time of year, the time of day and the anticipated weather conditions.

**3.8 All Open Air Burning – conditions of Fire Chief**

The Fire Chief may attach such conditions as deemed appropriate to any open air burning and will be at the discretion of the Fire Chief.

**3.9 Barrel Burning – Not permitted**

Burning materials in barrels is not permitted in the Township of Asphodel-Norwood. Burn barrels are not incinerators and therefore are not a permitted use for burning of materials under this By-Law.

**3.10 Incinerators – conditions of the Fire Chief**

Any person(s) installing and or using an incinerator which is a built device for the disposal of wood and wood by-products only shall ensure that the equipment is designed, and built in compliance with Sections 2.6.3 of the Ontario Fire Code and 6.2.6 of the Ontario Building Code.

**3.11 Incinerators – annual permits and inspections**

All incinerators in the Township of Asphodel-Norwood will be required to purchase a permit and will be subject to an inspection by the Fire Chief on an annual basis with fees as prescribed in Schedule “A”.

**3.12 Permission – refused or revoked – past contravention**

The fire Chief may revoke or refuse to grant permission or issue a permit for an open air burning or a special event if the proposed open air burning or special event would be in contravention of this by-law; if the owner, occupant or permit holder has contravened the provisions of this by-law in the past or if the owner, occupant or permit holder has not complied with any conditions attached to a permit for an open air burning that may have been imposed the Fire Chief on a previous occasion.

**3.13 Permission – fuel – prohibit**

The Fire Chief shall not give permission for open air burning of any non wood combustible material, pressure treated wood or creosote treated wood. Permissible fuels include clean dry seasoned wood, commercially produced charcoal, briquettes or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

**3.14 Permission – withdrawal**

The Fire Chief may withdraw a special event permit and/or stop an open air burning if, in the Fire Chief's opinion, the fire is causing a negative impact on the occupants of adjacent land, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated and has become unfavourable for an open air burning, conditions attached to the granting of permission are not being adhered to or if this by-law is being contravened.

**3.15 Permission – withdrawal – extinguish fire**

Upon notification by the Fire Chief to extinguish an open air burning, the land owner, occupant or permit holder shall immediately extinguish the fire.

**3.16 Failure to extinguish – liable for costs**

Should the land owner, occupant or permit holder fail to immediately extinguish the fire upon notification from the Fire Chief, or should the fire become out of control the land owner, occupant or permit holder may be held liable for any and all costs incurred by the Township of Asphodel-Norwood in its efforts to extinguish the fire and in accordance with fees attached as Schedule "A" to this by-law.

**3.17 Order to extinguish unapproved fires**

When made aware of an unapproved open air burning, the Fire Chief shall order the land owner or occupant to immediately extinguish the fire.

**3.18 Order – owner – occupant –extinguish fire**

The owner or occupant of land on which an unapproved open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Chief.

**3.19 Burn Ban – restrictions/authority**

The Fire Chief may from time to time as required issue a burn ban. During a burn ban, all open fires are prohibited until the burn ban is called off by the Fire Chief. A burn ban may cover all properties in the Township or be applied to specific properties as ordered and identified by the Fire Chief.

**3.20 Failure to extinguish unapproved fires – liable for costs**

Should the land owner, occupant fail to obtain an approved Open Air Burning Permit and fail to immediately extinguish the fire upon notification from the Fire Chief, or should the fire become out of control the land owner, occupant may be held liable for any and all costs incurred by the Township of Asphodel-Norwood in its efforts to extinguish the fire and in accordance with fees attached as Schedule "A" to this by-law.

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**3.21 Permission – brush burning – permit**

Notwithstanding part 2 of this by-law, all persons proposing to conduct and open air burning of brush and dry seasoned wood as defined by this by-law shall obtain a permit from the Fire Chief on the prescribed form.

**3.22 Permission – agricultural purposes**

A farmer who intends to set or maintain a fire in the open air on a specified day for disposal of vegetable matter or vegetation on farm lands, which is normal and incidental for farming purposes shall be issued a permit to cover the period of the proposed fire, and will be required to notify the Asphodel-Norwood Fire Department for each day of the proposed fire.

**3.23 Notification at the beginning of burning**

All persons in possession of an ‘Open Burning Permit’ shall notify the Asphodel-Norwood Fire Department by telephone at 705-639-5412 at the beginning of all open air burning as noted on the Permit (attached as Schedule “B”).

**3.24 Regulations re: Open Air Burning**

The following regulations shall apply with respect to open air burning of brush and dry seasoned wood:

- a) open air burnings may be conducted between half an hour after sunrise to half an hour before sunset;
- b) no materials other than dry brush and dry seasoned wood may be burned.

**3.25 Regulation re: Open Air Burning**

- a) Open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated;
- b) Burning of leaves in the Township of Asphodel-Norwood is strictly prohibited and no permits or permission will be granted for same;
- c) Complaints received regarding problems associated with smoke may be cause for an approval to be rescinded. Burning is not to take place when winds will cause smoke to have a negative impact on the occupants of adjacent land;
- d) No burning will be permitted if wind or weather could contribute to rapid spread of fire.

**3.26 Notification to extinguish**

All persons conducting an open air burning shall immediately extinguish the fire upon notification from the Fire Chief if, based upon the Fire Chief’s opinion:

- the fire is having a negative impact on the occupants of adjacent land

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- if the fire is having a negative impact on persons using a road or highway adjacent to the burn site
- or if the regulations of this by-law are being contravened.

Part 4

**ENFORCEMENT/ENACTMENT**

**4.1 Failure to extinguish – liable for costs**

Section 3.16 of this by-law shall apply to any person who fails to comply with the request of the Fire Chief in section 3.24 and/or if no permit granting permission has been obtained and/or issued, the property owner and/or occupant could be liable for associated fire services costs. (refer to Schedule “A” and Schedule “B” as attached)

**4.2 Enforcement**

The Fire Chief, and every member of the Fire Department designated as an assistant to the Fire Chief are authorized to enforce this By-law.

**4.3 Regulations - offences**

No person shall fail to comply with the regulations and guidelines (attached as Schedule “B”) as set out in this by-law.

**4.4 Contravention - fine**

Any person who contravenes this by-law is, upon conviction guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

**4.5 Continuation – repetition – prohibition by order**

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

**4.6 Default - collection of costs**

The Township has the right to collect any unpaid costs associated with Sections 3.16, 3.20 and 3.25 of this by-law by action, in a like manner as municipal taxes or the Township Council may provide that the expense incurred with interest, shall be payable in annual installments not exceeding ten years.

**4.7** The provisions of this By-law shall apply to all lands and premises within the Corporation of the Township of Asphodel-Norwood.

**4.8** Should any section of this By-law be declared invalid by a court of competent jurisdiction, such Section shall be construed as being severed from this By-law and the remainder of this By-law shall continue in full force and effect.

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- 4.9** This by-law comes into force on the day it is passed by Council.
- 4.10** The Township of Asphodel-Norwood By-law 2006-31 is hereby repealed.

Read a first, second and third time and finally passed this 4<sup>th</sup> day of June 2006.

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Reeve Douglas J. Percy

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Clerk Lorraine Brace, AMCT

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**Schedule “A”**

**Open Air Burning Permit Fees**

Open Air Burning Permit Fees & Enforcement

Special Event Open Burning Permit Fee	\$20.00
Annual Incinerator Permit and Inspection	\$20.00
Agricultural/Other Open Burning Permit Fee	\$2.00

Non-Compliance – Liability for Costs:

Any land owner or occupant who fails to comply with this By-law and/or fails to comply with the request of the Fire Chief to extinguish a fire could be liable for costs incurred by the Township of Asphodel-Norwood Fire Services for fire suppression.

All persons setting an open fire shall be liable for costs incurred by the Township of Asphodel-Norwood Fire Services for an emergency response to any address in violation of the guidelines or investigations of burning complaints of illegal burning. These costs include \$350.00 per hour for each responding vehicle for the first (1<sup>st</sup>) hour and \$175.00 per ½ hour for each responding vehicle thereafter.

The maximum fine to be charged in relation to attendance at a premises relating to a single incident shall be \$2,500.00.

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Schedule "B"



OPEN AIR BURNING PERMIT

Please note: *On each 'Open Air Fire Burning Permit'*-

**YOU MUST CALL THE ASPHODEL-NORWOOD FIRE DEPARTMENT BUSINESS LINE AT 705 639-5412 JUST BEFORE YOU LIGHT A FIRE EACH TIME, LEAVE YOUR NAME, PHONE NUMBER # AND PERMIT NUMBER # WITH PERSON RECEIVING THE CALL OR A MESSAGE ON THE ANSWERING MACHINE.**

The Corporation of the Township of Asphodel-Norwood  
Phone: 705 639 5343

And the Asphodel-Norwood Fire Department  
Phone: 705 639 5412

Permit for Open Fires PERMIT # \_\_\_\_\_

Name of applicant: _____	
Address of applicant including 911 Fire Number: _____	
Postal Code: _____	Lot _____ Concession _____ Phone #: _____
For the purpose of having a:	
<input type="checkbox"/> Agricultural/Other:	\$ 2.00
<input type="checkbox"/> Special Event Open Fire	\$ 20.00
<input type="checkbox"/> Annual Incinerator/Inspection Fee	\$ 20.00
Location: _____	
Material to be burned (be specific): _____	
Means of extinguishment available: _____	
Permit Valid from: _____ 200_ to _____ 200_.	
The applicant agrees to comply with the provisions of By-law # 2007-45, and also agrees to assume all responsibility for any damages occurring from the fire for which the permit is issued.	

Date: \_\_\_\_\_ Signature of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_ Signature of Issuing Official: \_\_\_\_\_

*When a permit is issued and numbered, municipal personnel will fax it to the Township Fire Department at 639-5434.*

**Note: Approval Guidelines for Open Air Burning on Reverse.....**

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**Schedule "B"**

**GENERAL GUIDELINE FOR ALL OPEN AIR BURNING**

**Open Air Burning**

*No person* shall conduct open air burning within the boundaries of the Township of Asphodel-Norwood unless permission has been given by the Fire Chief.

*All* open air burning in the Township of Asphodel-Norwood shall be attended and supervised at all times by competent, mature person(s).

*Only* burning of clean wood and brush is permitted.

Means of extinguishment shall be readily available at burn site.

*No* burning will be permitted if wind or weather could contribute to rapid fire spread.

Complaints received regarding problems associated with smoke may be cause for an approval to be rescinded. Burning is *not* to take place when winds will cause smoke to have a negative impact on the occupants of adjacent land.

A burn ban will *always* override any permission or permit obtained to conduct open air burning.

Open air burning *shall not* be carried out on Smog Alert days which are declared by Environment Canada when the Air Quality Index is expected to reach 50, a level that can impact the health of citizens. Citizens can call the Ontario Ministry of the Environment Air Quality Index Reporting System at 1-800-387-7768 for information pertaining to days designated as Smog Alert Days.

*All persons* setting an open air fire can be held liable for costs incurred by the Township of Asphodel-Norwood Emergency Services for an emergency response to any address in violation of the guidelines or investigations of burning complaints of illegal burning. These costs include \$350.00 per hour for each responding vehicle for the first hour or part there of and \$175.00 per ½ hour or part there of for each responding vehicle thereafter.

**Additional Guidelines for Open Air Burning by Recreational Fire, Outdoor Fireplace and Chimineas**

Permission is granted by the Fire Chief and *a permit is not necessary* for a recreational campfire as long as *General Guidelines for All Open Air Burning* are followed as well as the following guidelines specific to recreational fires, outdoor fireplaces and chimineas:

- Recreational campfires shall be contained in non-combustible containers and must be kept to a maximum 0.9m (3') by 0.9m(3') and flames shall be contained within these dimensions and not exceed 0.9m (3') in height from the bottom of the pit area.
- Recreational Campfires must have a minimum 3metres (9.8') feet clearance to any building, combustible material and property line.
- The use of outdoor fireplaces and chimineas must be located on a non-combustible surface and meet the same as above recreational fire clearances and size unless more prohibited instructions by manufacturers specifications.
- The amount of material being burned is to be limited to ensure that the flames are confined to the unit.

**Safety Considerations**

*Be aware* of potential personal injury, such as superficial burns from contacting unit, ignition of clothing from sparks or flame. Also be aware of possibilities of injury and fire spread resulting from accidental tipping of unit. Check unit regularly *before* use for the appearance of crack or other physical deterioration

**NOTE:**

**INSPECTIONS CAN BE DONE UPON REQUEST EVEN IF A PERMIT IS NOT REQUIRED**