

THE CORPORATION OF THE TOWNSHIP OF LAKE OF THE WOODS

BY-LAW No 309

Being a by-law to control and regulate open air burning including to prescribe the time during which fires may be set in the open air, the precautions to be observed by persons setting fires, the requirement for fire permits and the fee for fire permits.

WHEREAS the Council of the Township of Lake of the Woods is empowered under the *Fire Protection and Prevention Act*, 1997, S.O. 1997,c.4 as amended, (the "Act") to pass by-laws regulating fire prevention, including the prevention of the spreading of fires: and

WHEREAS the Council is also empowered under the 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 the Council is also empowered under the *Municipal Act, 2001*, S.O. 2001,c.25, s.128, as amended, to pass by-laws to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are, or could become or cause public nuisances; and

WHEREAS the Act and O. Reg. 213/07, the Ontario Fire Code, at s.2.6.3.4, provides that open air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue; and

WHEREAS Council deems it expedient to pass a new outdoor burning by-law; and

NOW THEREFORE the Council of the Corporation of the Township of Lake of the Woods HEREBY ENACTS:

1 DEFINITIONS

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

"Agricultural burn" means a fire to burn a large field or clear area or large brush piles from a land clearing operation.

"Agricultural burn plan" means a document completed by the owner(s) or authorized designate that outlines all aspects of how a large scale fire will be conducted and includes but is not limited to the plan of how to control the fire and or smoke created by the fire.

“Application form” means the document in the format approved by the Chief Fire Official and made available by the Lake of the Woods Fire Service to a person for purposes of applying for a fire permit pursuant to this by-law.

“Approved” means approved by the Chief Fire Official or designate.

“Approved burn products” means clean dry wood or standing dead grass.

“Chief Fire Official” means the Fire Chief of the Lake of the Woods Fire Service or his/her designate.

“Lake of the Woods Fire Service” means the fire services provided by the Township of Lake of the Woods as one of the member municipalities that form the West Rainy River Fire Department.

“Firefighter” includes all members of the Lake of the Woods Fire Service, including the Fire Chief.

“Officer” means a by-law enforcement officer, fire fighter, or police officer.

“Open air” means any open place, yard, field or construction area which is not enclosed by a building or structure.

“Open air burning” means any fire, portion of fire or precursor conditions that are not wholly contained and thereby open to air.

“Outdoor Fireplace” means a manufactured non-combustible enclosed container designed to hold a small fire for decorative purposes and the size of which is not larger than 1 meter in any direction, and may include, but is not limited to, chimneys. Only the combustion chamber should be evaluated in determining size of container.

“Residential area” means a village area or cottage or other development area where adjacent lots are less than .8 hectares in size and/or less than 60 metres in width.

“Rural area” means areas other than a residential area.

“Township” means The Corporation of the Township of Lake of the Woods.

2 ADMINISTRATION

2.1 This by-law shall be administered by the Chief Fire Official and shall be enforced by the Chief Fire Official or other designated By-law Enforcement Officers.

3 REQUIREMENT FOR PERMIT, APPLICATION AND FEE

3.1 No person(s) or owner(s) of land shall set a fire or permit the setting of a fire, or having set or permitted the setting of a fire, permit a fire to continue to burn without first having obtained a fire permit from the Chief Fire Official, and in accordance with the provisions of the said permit and this by-law.

3.2 Any person is entitled to a fire permit under this by-law who:

3.2.1 Completes the application form and submits same to the Chief Fire Official, at least forty-eight (48) hours in advance of the setting of an open-air fire that requires a site inspection. The application form shall be submitted to the Lake of the Woods Fire Service. The applicant shall provide an application form information indicating that he or she shall comply with the provisions of this by-law; and

3.2.2 Pays the fee for the fire permit, and an additional fee for a site inspection if required by the Chief Fire Official or designate.

3.2.2.1 The fee for the issuance of a fire permit shall and the fee for a site inspection shall be as set out in the Township of Lake of the Woods current schedule of fees.

3.2.3 Receives approval from the Chief Fire Official to conduct the burn as described in the permit.

3.3 Any person wishing to conduct an Agricultural burn shall file a complete fire plan for the proposed large scale fire.

4 WHERE PERMIT IS NOT REQUIRED

4.1 A small confined fire used to cook food on a grill or a barbeque, supervised at all times, shall not be deemed to require a fire permit for the purpose of this by-law.

4.2 A small confined fire used for recreational purposes, less than one metre (39 inches) in diameter, less than one metre (39 inches) in height, and supervised at all times, shall not be deemed to require a permit for the purposes of this by-law. These fires must be confined in a fire pit or fire ring and located at least 10 metres from any structure or combustible materials. Either homemade or manufactured construction is acceptable.

4.3 Outdoor Fireplace with dimensions less than one metre (39 inches) in diameter, less than one metre (39 inches) in height, and supervised at all times, shall not be deemed to require a permit for the purposes of this by-law. These items must be located on a non-combustible surface extending beyond the unit to a dimension

equal to the height of the unit and located at least 10 metres from any structure or combustible materials.

4.4 In the rural area a small confined fire used to burn a small brush pile, containing no contaminated materials, construction products and water material, less than two metres (78 inches) in diameter, less than two metres (78 inches) in height and located at least 15 metres from any structure, hedge, fence, vehicular roadway, overhead wire, or combustible of any kind and supervised at all times, shall not be deemed to require a permit for the purposes of this bylaw.

4.5 In the rural area a small grass fire used to burn a yard or ditch or watercourse bank, less than 1 hectare (2.4 acres) in size, with less than 30 meters length of flame, if the fire line exceeds 30 metres it must be extinguished to less than that threshold, located at least 15 metres from any structure, hedge, fence, overhead wire, or combustible of any kind and supervised at all times, shall not be deemed to require a permit for the purposes of this bylaw.

4.6 While being exempted from permits in clauses 4.1 to 4.5, any person burning in the Township of Lake of the Woods shall be responsible to burn in accordance with the provision of this by-law in section 6, 7 and 8, in they are not specifically identified in this section.

4.7 Persons burning for the purposes of cooking or recreation in clauses 4.1 and 4.2 are exempted from the time limitations defined in section 7.5 of this bylaw.

4.8 All fires must be built using clean dry wood and uncontaminated materials. Construction products and waste materials cannot be used as fuel source for fires and must be disposed of in the landfill. Commercial fire logs are also an acceptable fuel source.

4.9 The Lake of the Woods Fire Service and or other member of the West Rainy River District Fire Department shall be exempted from the provisions of this by-law with respect to open air burnings set for the purpose of educating, training and risk reduction.

5 REVOCATION, SUSPENSION

5.1 A fire permit may be cancelled or suspended at any time by the Chief Fire Official. Immediately upon receiving notice of such cancellation or suspension the permittee shall extinguish any fire started pursuant to the permit.

5.2 The Chief Fire Official or designate may at his or her discretion issue a fire ban for the Township of Lake of the Woods at which time all open air burning shall be prohibited.

6 BURNING REQUIREMENTS

- 6.1 Where a fire permit has been issued pursuant to this by-law the applicant and the owner of the lands on which the fire is set shall be responsible for any damage or injury to persons or property with respect to the setting of a fire or permitting the fire to burn and they shall insure that:
- 6.2 In residential areas unless otherwise approved by the Chief Fire Official, not more than 1.5 cubic metres (5ft) of piled material may be burned at any one time.
- 6.3 Only clean dry wood or standing dead grass is burned.
- 6.4 The fire pile must be separated by 3m (10ft) from any hedge, fence, vehicular roadway, overhead wire, or combustible of any kind. A minimum of 4 metres (14ft) of separation must be maintained from any structure.
- 6.5 When burning grass, not more than .4 of a hectare can be ignited at any one time. If the fire line exceeds 30 metres it must be extinguished to less than that threshold.
- 6.6 The fire is attended at all times by a competent person until it is completely extinguished.
- 6.7 Sufficient equipment and resources are available at the burn site to extinguish the fire if the fire gets out of control or is causing any adverse effect including those set out in Section 7 of this by-law.
- 6.8 At the end of the burn, that the fire is completely extinguished prior to the applicant and the owner leaving the burn site.
- 6.9 Residual components of a burn that are not consumed by fire are removed, and the burn area cleared or returned to its natural condition within two weeks of fire extinguishment.

7 CONDITIONS OF PERMIT

- 7.1 Where a fire permit is issued, no person shall:
- 7.2 Set a fire or permit a fire to burn when the wind is in such a direction or of such intensity so as to reduce the visibility on any roadway or cause danger to any person or structure.
- 7.3 Set a fire or permit a fire to burn when the Ministry of Natural Resources has issued a fire ban for the region.

- 7.4 Set a fire or permit a fire to burn when the Chief Fire Official has issued a fire ban for the community or suspended the fire permits in the community.
- 7.5 Set a fire or permit a fire to burn other than between the hours of two hours before sunset and two hours after sunrise, unless otherwise expressly permitted by the Chief Fire Official.
- 7.6 Set a fire or permit a fire to burn without first having confirmed that the materials to be burned meet the requirements of this by-law as identified in the definitions (clean dry wood, or standing dead grass only), and that they do not include waste or contaminated materials.
- 7.7 Set a fire in a manner that creates a nuisance or causes a disturbance.
- 7.8 Set a fire without having a portable fire extinguisher, operable garden hose, or other extinguishing materials available while the fire is burning.

8 OFFENCES AND ENFORCEMENT

- 8.1 A person is guilty of an offence if the person:
- 8.1.1 Furnishes false information in the Application for a Permit.
- 8.1.2 Contravenes any provisions of this by-law.
- 8.1.3 Fails to produce a permit when requested by an officer as defined by this by-law.
- 8.2 Any person who contravenes the provisions of this by-law is guilty of an offence and upon conviction shall be liable to the penalties imposed pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990 Chapter P.33, as amended.
- 8.2.1 Notwithstanding the offence provisions of this by-law, any person who contravenes Section 2.6.3 of the Ontario Fire Code may be prosecuted in accordance with Section 28 of the *Fire Protection and Prevention Act, 1997*.
- 8.3 The Chief Fire Official or designate may revoke a permit if the permit holder fails to comply with the requirements of the permit and/or any other provision of this by-law.
- 8.3.1 Upon revocation, the permit holder or owner must immediately extinguish the fire or the fire service may extinguish the fire with all costs incurred being recoverable from the property owner or permit holder.

8.4 The Chief Fire Official or designate may order a fire to be extinguished immediately if the fire:

8.4.1 Is not set in compliance with this by-law.

8.4.2 Is determined upon inspection by the Chief Fire Official or an Officer to constitute a safety hazard or concern.

8.4.3 Upon order to extinguish, the permit holder or owner must immediately extinguish the fire or the fire service may extinguish the fire with all costs incurred being recoverable from the property owner or permit holder.

9 SEVERABILITY

9.1 Should any section or subsection of this by-law or any part or parts thereof be found by law to be illegal or beyond the power of the Council to enact, such section or subsection or part, or parts thereof shall be deemed to be severable so that the remainder of this by-law shall continue in force.

10 REPEALING SECTION

10.1 By-law No 14 as amended by By-law 78 is hereby repealed.

11 EFFECTIVE DATE

11.1 This by-law shall come into force and take effect on the date of passing.

12 SHORT TITLE

12.1 This by-law may be referred to as the “Open Air Burning By-law”

ENACTED this 7th day of June 2016.

Originally signed

V PIZEY Mayor

PATRICK W GILES Clerk