



REPORT ADM-2014-002

TO: Mayor and Members of Council

FROM: Karen Landry, CAO/Clerk

SUBJECT: Proposed By-law to regulate Open Air Burning
File No. C01/FIR

RECOMMENDATIONS

That Report ADM-2014-002 regarding a proposed By-law to regulate open air burning be received; and

That Council directs staff to proceed with holding a Public Meeting on Wednesday April 2, 2014 at 7:00 p.m. at the Community Centre; and

That staff advise any stakeholders that may have an interest in this matter of the Public Meeting.

DISCUSSION

Purpose

The purpose of this Report is to obtain direction from Council to proceed with holding a Public Meeting to obtain input from the public on the proposed By-law to regulate open air burning.

Background

The Township passed By-law 54/2007 on November 7, 2007 to regulate the setting of open air fires in the Township.

The Fire and Rescue Committee (“Committee”) at its meeting held on November 20, 2013, discussed the need to review the open air burning By-law to update the requirements related to open air burning and amendments to the permit process.

Subsequently, the Committee at its meeting held on January 15, 2014, reviewed the proposed by-law and passed Recommendation No. FIR-2014-003 requesting Council to direct staff to hold a public meeting for the purpose of seeking input on the proposed by-law.

By-law Requirements

Outlined below is a table summarizing the main requirements and obligations contained in the Township's current and proposed by-law:

Open Air Burning

Current By-law 54/2007	Proposed By-law	Comments
Permit required for an Open Air Fire – Valid for 3 months	Permit required for an Open Air Fire – Valid for 1 year	3 month permit to an annual permit
No Permit Fee	Permit Fee	Annual permit fee of \$20.00
Terms and Conditions of Permit – No Person shall set an open air fire at a distance of less than one hundred and fifty (150) metres from any building, structure, hedge, fence ...	Terms and Conditions of Permit – No person shall set an open air fire at a distance that is within fifteen (15) metres of any building, structure, hedge, fence...	This change is to correct a typographical error as it is not possible to achieve a 150 metre distance separation in the urban sectors of the municipality.
Terms and Conditions of Permit – Wind speed exceeds 24km/hr	Terms and Conditions of Permit – Wind speed exceeds 16 km/hr	Reduction of wind speed by 8 km/hr
Terms and Conditions of Permit – May not burn between sunset and sunrise	Terms and Conditions of Permit – May not burn between 9:00 p.m. and 7:00 a.m.	Times specifically stated for clarity.
	Terms and Conditions of Permit - During a Smog Alert - In accordance with the Environmental Protection Act - When a fire ban is in effect	Added
Outdoor Fireplace and Cooking Fire – Permit not required	Outdoor Fireplace and Cooking Fire – Permit not required	No Change
Outdoor Fireplace and Cooking Fire – Fire distance of not less than fifty (50) feet (15 metres)	Outdoor Fireplace and Cooking Fire – Fire distance no less than ten (10) metres	Reduction of 5 metres

Campgrounds not addressed	<p>Campground is defined and is exempt from obtaining a permit. However a campground is required to have an approved open air burning location and associated rules and regulations.</p> <p>The following have been recognized as a “Campground” for the purposes of this By-law: Riverbend, McClintocks and Emerald Lake.</p> <p>To qualify as a “campground” the premise must be a travel trailer park with a Resort Commercial designation under the Township’s zoning by-law</p>	Added
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Wellington Country and Surrounding Municipalities & Fees

Municipality	Permit Required	Fee
Guelph	Not permitted	N/A
Milton	Yes	\$30.00/annual
Cambridge	Yes	\$54.00/month
Guelph-Eramosa	Yes	\$25.00/annual
Minto	Yes	No fee
Mapleton	Yes	No fee/each occurrence
Wellington North	Yes	No fee/6 months
Centre Wellington	Yes	\$25.00/annual
Erin	Yes	\$20.00/annual
Hamilton	Yes	\$10.00/annual

Public Meeting

It is recommended that Council direct staff to proceed with a public meeting on the proposed by-law to regulate open air burning. The proposed date for the Public Meeting is Wednesday, April 2nd at 7:00 p.m.

Staff will publish notice in the newspaper regarding the date and time of the public meeting and will also notify those individuals and stakeholders that have indicated to the Township that they wish to be notified of the public meeting.

Upon conclusion of the public meeting staff will report back to the Fire and Rescue Committee and then Council on the feedback received and the proposed by-law.

Financial Implications

The fee for obtaining a permit for open air burning has been included in Township's Fee By-law which is reviewed on annual basis. The fee will come into effect upon the passing of a new open air burning by-law.

The fee has been established at \$20.00/per annum to recover a portion of the costs for administering the program.

A total of 650 permits (3 months in duration) were issued from January to November 2013, with 483 being for different properties. A conservative estimate of issuing 400 permits annually would result in an increase of \$8,000.00 in annual revenue which will be allocated to account 01-0015-3230 for the Fire and Rescue Department. This projected revenue has not been included in the 2014 Operating Budget as the revenue is contingent upon the passing of new open air burning by-law establishing an annual permit requirement with a fee.

Applicable Legislation and Requirements

Fire Protection and Prevention Act, S.O. 1997, c. 4
Municipal Act, S.O. 2001, c. 25

SCHEDULE "A" T O REPORT ADM-2014-002

THE CORPORATION OF THE TOWNSHIP OF PUSLINCH

BY-LAW NUMBER 2014-XXX

A By-law to regulate the setting of Open Air fires
and to repeal By-law 54/2007

WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, S.O. 1997, c. 4, as amended provides authority to the Council of a municipality to pass by-laws to regulate fire prevention including the prevention of the spreading of fires; and

WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, S.O. 1997, c. 4, as amended provides authority to a Council of a municipality 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 Section 128 of the Municipal Act, S. O. 2001, as amended provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances; and

WHEREAS Council considers excessive smoke, smell, airborne sparks or embers to be or could become or cause public nuisances by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighbouring properties and generating false fire alarms;

NOW THEREFORE the Council of the Corporation of the Township of Puslinch enacts as follows:

1. **DEFINITIONS**

In this By-law:

"Barbeque" includes any portable appliance, hibachi or grill intended for cooking food;

"Chiminea" means a clay, porcelain or metal receptacle used for the purposes of burning;

"Cooking Fire" is used for the purposes of cooking food on a grill contained by non-combustible material such as cement blocks and rocks;

“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 diameter and includes a Chiminea;

“Council” means the Council for the Corporation of the Township of Puslinch;

"Extinguish" means to put out or quench a fire completely, no smoke, hot or glowing embers remain;

“Fire Chief” means the Fire Chief for the Township or his/her designate;

“Gas-fired Outdoor Campfire Devices” means listed ULC or CSA gas (natural, propane) appliances;

“Ground Cover” includes leaves, grass, weeds, tree needles or wood chips;

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“Officer” means a police officer, Fire Chief, municipal law enforcement officer or other person appointed by by-law to enforce the provisions of this By-law;

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

“Permit” means a Permit issued pursuant to this By-law by the Township;

“Person” includes a corporation and their heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law;

“Smog Alert” means an alert issued by the Ministry of Environment with respect to air quality for the County of Wellington;

“Township” means the Corporation of the Township of Puslinch or the land within the geographic limit of the Corporation of the Township of Puslinch as the context requires.

2. GENERAL PROHIBITIONS

- (1) No Person shall set or permit a fire in Open Air without a current valid Permit.
- (2) No person shall set or maintain an Open Air fire other than in accordance with the terms and conditions of a Permit and the provisions of this By-law.

- (3) No person shall set or permit an Open Air fire upon any land owned by the Township without having obtained permission from the Township.
- (4) An owner of property on which an Open Air fire has been set or permitted to burn shall be deemed to have permitted the Open Air fire and assumes all responsibility.
- (5) No person under the age of eighteen (18) shall light or ignite an Open Air fire.

4. **PERMIT – OPEN AIR FIRE**

- (1) Every Person making an application for a Permit for an Open Air fire shall:
 - (a) submit a complete application in the form provided by the Township at least one (1) day prior to the Open Air fire;
 - (b) submit written permission of the property owner, if applicable;
 - (c) submit any other documents as may be required to substantiate compliance with any other legislation to the satisfaction of the Township;
 - (d) submit the required Permit fee in accordance with the Township's Fee By-law.
- (2) A Permit is valid for the current calendar year in which it is issued.
- (3) A Permit is not transferable.
- (4) The Fire Chief may refuse to issue a Permit where a Person has previously failed to comply with the terms and conditions of a Permit or the provisions of this By-law.

5. **TERMS AND CONDITIONS OF PERMIT**

- (1) Any Person who is issued a Permit shall not set or permit a fire in Open Air:
 - (a) when the wind speed exceeds sixteen (16) kilometers per hour;
 - (b) during a Smog Alert;
 - (c) other than between the hours of 7:00 a.m. through 9:00 p.m., unless otherwise permitted by this By-law or expressly authorized by the Fire Chief;
 - (d) that creates a nuisance or has an adverse effect on a neighbouring property owner;
 - (e) that creates excessive smoke;
 - (f) that exceeds one (1) metre in diameter and height;
 - (g) other than burning unpainted wood, organic materials, ground cover and paper products;
 - (h) that is within fifteen (15) metres of any building, structure, hedge, fence, Highway or overhead wire;
 - (i) without a five (5) metre radius around the perimeter of the Open Air fire that is free and clear of combustible article and ground cover;

- (j) other than in accordance with the Environmental Protection Act, R.S.O. 1990, c. E. 19, as amended;
 - (k) without maintaining constant watch over the Open Air fire until the fire is extinguished;
 - (l) without appropriate extinguishing agents 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;
 - (m) when a fire ban is in effect.
- (2) The Fire Chief may impose any additional terms or conditions that he considers necessary in the interest of public safety.
- (3) A Permit is automatically revoked when a Person fails to comply with the terms and conditions of a Permit or the provisions of this By-law.

6. **PERMIT – EXCEPTION**

- (1) A Permit for an Open Air fire is not required for supervised cooking food on a Barbeque, Gas-Fired Outdoor Campfire Devices, Cooking Fire and Outdoor Fireplace.

7. **OUTDOOR FIREPLACE**

- (1) Notwithstanding any other provision contained in this By-law, no Person shall set or permit a fire in Open Air using an Outdoor Fireplace other than between the hours of 7:00 a.m. through 11:00 p.m.
- (2) Notwithstanding any other provision contained in this By-law, no Person shall set or permit a fire in Open Air using an Outdoor Fireplace within ten (10) metres of any building, structure, hedge, fence, Highway, overhead wire or other combustible article - obstruction of any kind or nature whatsoever.

8. **COOKING FIRE**

- (1) Notwithstanding any other provision contained in this By-law, no Person shall set or permit a Cooking Fire in Open Air other than between the hours of 7:00 a.m. through 11:00 p.m.
- (2) Notwithstanding any other provision contained in this By-law, no Person shall set or permit a Cooking Fire in Open Air within ten (10) metres of any building, structure, hedge, fence, Highway, overhead wire or other combustible article - obstruction of any kind or nature whatsoever.

9. **CAMPGROUNDS**

- (1) For the purpose of this section the following definitions apply:

“Camp Fire” means an open fire where the size of the open air fire is limited to the size of the device or area provided by the Campground and is solely for the purpose of cooking food, warmth and recreational enjoyment;

“Campground” means a travel trailer park with a Resort Commercial designation under the Township’s Zoning By-law.

- (2) No person shall have a Camp Fire in a Campground other than in a location approved by the Fire Chief.
- (3) No person shall have a Camp Fire in a Campground unless it is a safe distance from combustible structures or objects.
- (4) No person shall have a Camp Fire in a Campground except in accordance with the Campground rules and regulations.
- (5) Every owner of a Campground shall submit their Camp Fire rules and regulations to the Fire Chief for approval.

10. **ENFORCEMENT AND PENALTY PROVISIONS**

- (1) The enforcement of this By-law shall be conducted by an Officer.
- (2) No person shall hinder or obstruct an Officer in the enforcement of this By-law.
- (3) Any person who is alleged to have contravened any section of this By-law shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of his duties.
- (4) An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with.
- (6) Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable:
 - (a) on a first offence, to a fine of not less than \$250.00 and to a fine of not more than \$50,000.00; and
 - (b) on a second and each subsequent offence, to a fine of not less than \$500.00 and a fine of not more than \$100,000.00

- (7) Any person who is issued a Part I offence notice and is convicted of an offence under this By-law shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- (7) Every director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law by the corporation is guilty of an offence.

10. SEVERABILITY

- (1) If a court of competent jurisdiction declares any section or part of the By-law invalid, it is the intention of Council that the remainder of the By-law shall continue in force.

11. SINGULAR AND PLURAL USE

- (1) In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

12. EXEMPTION

- (1) The Township is exempt from the provisions of this By-law for the purpose of conducting training, education or research for the Fire and Rescue Services Department and for operations associated with the Public Works Department.

13. REPEAL

- (1) By-law 54/2007 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS XXXX DAY OF XXXXXXXXXXXX, 2014.

Dennis Lever, Mayor

Karen M. Landry, CAO/Clerk