

# THE CORPORATION OF THE TOWNSHIP OF PUSLINCH

## BY-LAW NUMBER 45/14

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, 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;

“Nuisance” as determined by the Fire Chief or their designate, or By-law, means excessive smoke, smell, airborne sparks or embers, and airborne particles or burnt materials 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;

“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 in the Township without a current valid Permit.
- (2) No person shall set or maintain an Open Air fire in the Township 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.
- (3) 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.
- (4) No person under the age of eighteen (18) shall light or ignite an Open Air fire.

## **3. 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.

#### **4. 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.
- (4) The Fire Chief may vary the terms and conditions of a Permit upon conducting an inspection and determining safety is maintained through any approved site specific terms and conditions.

#### **5. 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.

#### **6. 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.

#### **7. 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.

## 8. 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.

## 9. 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.
- (5) 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
- (6) 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.

**14. EFFECTIVE DATE**

- (1) This By-law shall come into effect on July 2, 2014.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 18th DAY OF JUNE, 2014.**

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Dennis Lever, Mayor

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Karen M. Landry, CAO/Clerk