

Township of Woolwich

By-law No. 19-2013

A By-law to regulate open air burns in the Township of Woolwich and to repeal By-law 72-2001

Whereas Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

And Whereas Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended provides that Section 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to enable municipalities to govern their affairs as they consider appropriate; and enhance their ability to respond to municipal issues;

And Whereas the Fire Protection and Prevention Act, 1997, S.O. 1997, Part II, S.O. 1997, c. 4, provides that the Council of a municipality may establish a by-law to regulate fire prevention and the setting of open air fires, including establishing the times during which open air fires may be set and the precautions to be observed by person setting such fires;

Be it therefore enacted by the Municipal Council of the Corporation of the Township of Woolwich, as follows:

Definitions

1.1 In this by-law, unless the context otherwise requires:

- a) Approved means approved by the Fire Chief, Assistant to the Fire Marshal or designate;
- b) Assistant to the Fire Marshal means a person authorized by the Fire Protection and Prevention Act, 1997 as amended to enter and inspect any building or premises in the municipality
- c) Barrel or Drum means a large container, usually cylindrical, made of non-combustible material of various capacity;
- d) Camp Fire means an open fire area where the size of the fire is limited to the size of the device/area and is maintained solely for the purposes of cooking food, and or recreational enjoyment;
- e) Council means the Council of the Corporation of the Township of Woolwich;
- f) Dangerous Conditions means:
 - i. A lack of precipitation which increases the risk of the spread of fire,
 - ii. Wind speeds which, in the opinion of the Fire Chief or designate, increase the spread of fire;

- iii. A Fire Ban or any other condition declared by the Fire Chief or designate to be a dangerous condition which increases the risk of the spread of fire;
- g) Designate means a member of the Fire Department appointed by the municipal Fire Chief
- h) Equipment and Resources means sufficient personnel and equipment such as rakes, shovels, backhoes, bulldozers, front-end loaders and/or water on-site required to control a fire;
- i) Fees and Charges means the schedule of rates and fees approved by the Council of the Corporation of the Township of Woolwich;
- j) Fire means any fire set in the open air by any person within the boundaries of the Municipality;
- k) Fire Chief means the municipal Fire Chief
- l) Fire Department means the Township of Woolwich Fire Department;
- m) Municipality means the Corporation of the Township of Woolwich;
- n) Ontario Fire Code means O. Reg 213/07 made under the Fire Protection and Prevention Act 1997, S.O. 1997.c.4, as amended;
- o) Open Burn means the burning of materials such as wood, cardboard, tree limbs, brush and or garden waste where the flame is not wholly contained and includes campfires, brush fires, burn drums, and outdoor fire container. Open air burning and open air burn shall have the same meaning;
- p) Outdoor Fire Container means a small non-combustible container used to contain a small fire and includes but is not limited to chimineas, fire pits, fire bowls, and outdoor brick fireplaces;
- q) Owner means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property;
- r) Permit means the permit issued by the Fire Chief or designate signifying permission to set a fire and establishing the conditions under which the permit is granted;
- s) Person means any individual, association, firm, partnership, corporation, agent or trustee and their heirs, executors or other legal representation of a person;
- t) Smog Alert means an alert issued by the Ministry of the Environment with respect to air quality in the Township of Woolwich. Poor Air Quality Advisory shall have the same meaning.

General Provisions for all Fire

- 2.1 No person being the owner or tenant in possession of lands within the Municipality shall set a fire or allow a fire to burn without first having obtained a permit.
- 2.2 Every person setting, permitting to be set, maintaining or permitting to be maintained an open air burn shall allow at reasonable times, fire department staff to inspect the location or proposed location of the open air burn prior to burning.
- 2.3 In the absence of being issued a permit, an owner shall be deemed to have permitted a fire to burn and the owner assumes all responsibility and liability where a fire has been set or permitted to burn in the open air.
- 2.4 Notwithstanding any provisions herein, no person shall cause or permit a fire to be set.
 - a. In contravention of the Ontario Fire Code, the Environmental Protection Act or any other statutory requirements of the Province of Ontario or the Government of Canada;
 - b. On any road or other public property within the Municipality;
 - c. In any park owned or operated by the Municipality without the written permission of the Municipality;
 - d. Where the consumption of material will exceed the limit set by the Fire Chief or designate;
 - e. Unless the equipment and resources designated on the permit are available at the fire site at all times during the fire;
 - f. With the aid of flammable or combustible liquids or accelerants of any kind;
 - g. Unless the person to whom the permit has been issued or such other person as may be designated in the permit is at least eighteen (18) years of age and is in attendance at the fire in a responsible and supervisory capacity at all times until such time as the fire has been completely extinguished;
 - h. That uses prohibited materials which include garbage, pressure treated, creosote treated or painted wood, petroleum based products, plastics, rubber, styrofoam or any combustibles or hazardous materials that produce toxic fumes;
 - i. At times when a Smog Alert has been declared;
 - j. When a fire ban has been issued by the Fire Chief or designate.
- 2.5 No person shall cause or permit a fire to cause or increase the likelihood of any of the following:
 - a. Smoke or fire damage to property;
 - b. Odour or smoke to cause discomfort to persons, hazards to health or loss of

enjoyment of normal use of property in the immediate area. Obtaining authorization to have an open air fire does not relieve an owner from his/her obligation to ensure that smoke does not interfere with the ability of neighbours to enjoy their properties or conduct their business without disruption;

- c. A spread of fire through grass or brush area beyond its intended limits;
- d. A decrease in visibility on any highway or roadway;
- e. All persons approved to conduct open air burning shall ensure that all fires are completely extinguished before the site is vacated;
- f. No fire in the open air shall be started or maintained when the wind speed is in excess of 16 km (10 miles) per hour.

Exemptions

- 3.1 No permit shall be required if the burning consists of a small confined fire or campfire (not to exceed 60 cm, (2 feet) in size) burning only clean wood and is supervised at all times. Persons shall contain the fire within the outdoor container at all times.
- 3.2 No permit shall be required for commercially produced outdoor appliances burning charcoal, propane or natural gas that conforms to the Canadian Standards Association (CSA) codes and standards.
- 3.3 The Fire Department shall be exempt from the provisions of the By-law with respect to open air fires for the purposes of training, educating individuals in fire safety or for research purposes.
- 3.4 The municipality shall be exempt from the provisions of this By-law with respect to open air fires related to municipal works.
- 3.5 Exemptions to the minimum distance requirement must be approved by the fire department prior to the lighting of the open burn.

Requirement for Open Air Burning

- 4.1 The burn site shall not exceed 6 metres by 6 metres (20 feet by 20 feet) and is limited to the previously inspected site area.
- 4.2 The burn site shall be confined to a location that provides for a minimum distance of not less than 30 metres (100 feet) from any property line, structure, fence, hedge, roadway, overhead wire or any other combustible structure or object.
- 4.3 Open burning is limited to between the hours of 8AM and one hour before sunset. No burning is allowed on Sunday or Christmas Day.
- 4.4 A fee to have an open burn applies. The fee for the issuance of a fire permit is set out in the By-law to establish Fees and Charges.

Specific Events or Controlled Burns

- 5.1 All persons seeking permission to hold a special event or controlled fire involving an open burn shall apply in writing to the Fire Chief. A “burn plan” which contains an assessment of the risks and safety precautions that will be taken shall be included with the request.

Penalty

- 6.1 In the event the Fire Department responds to an open air burning incident being conducted without a permit, or in violation of the conditions of the permit, or who fails to extinguish a fire once notification to do so has been given to him/her by the Fire Chief or designate, fines and or costs associated with enforcing the conditions of this by-law may be charged to the property owner and or permit holder pursuant to the Municipality’s Fees and Charges by-law as amended from time to time.
- 6.2 Any person who violates any provisions of this By-law is, upon conviction, guilty of an offence and shall be liable to a fine, subject to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, and be subjected to any other penalties permitted by law for each offence.

Revocation

- 7.1 Permits issued under this By-law may be revoked by the Fire Chief or designate if, in the opinion of the Fire Chief or designate a dangerous condition exists in or near the site of the open air fire.
- 7.2 Permits issued under this By-law may be revoked by the Fire Chief or designate if the permit holder fails to comply with the requirements of the permit and any other provisions of this By-law.

Indemnification

- 8.1 The applicant for a permit as required under this by-law shall indemnify and save harmless the Municipality from any and all claims, demands, causes of action, loss, costs or damages that the Municipality may suffer, incur or be liable for resulting from the performance of the applicant as set out in this by-law, whether with or without negligence on the part of the applicant, the applicant’s employees, directors, contractors and agents.

Severability

- 9.1 If any section of this by-law is found to be illegal or beyond the power of the Municipality, such section or part or item shall be deemed to be severable and all other sections of this by-law shall be deemed to be separate and independent there from and to be enacted as such.

Enforcement

- 10.1 The Fire Chief shall be responsible for administration and enforcement of this By-law. The Fire Chief may from time to time make amendments to the Fire Permit application form that are administrative in nature.
- 10.2 This By-law shall be enforced by the Fire Department, Assistants to the Fire Marshal or such other persons as the Fire Chief or Council may designate.
- 10.3 No person shall hinder or obstruct or attempt to hinder or obstruct those individuals charged with the enforcement of the By-law from carrying out their duties under this By-law.

Repeals

- 11.1 That any bylaws or parts of any bylaws inconsistent with this bylaw are hereby repealed.

Effect

- 12.1 That this bylaw shall come into force and take effect upon the date of final passing thereof.

PASSED this 15th day of April, 2013.

Signed by the Mayor and the Clerk.