

THE CORPORATION OF THE TOWNSHIP OF PERTH SOUTH

BY-LAW NO. 18-2014

BEING a By-law to authorize the signing of an amendment of By-law 36-2008.

WHEREAS it is desirable to amend By-law 36-2008 being a by-law to regulate conditions under which fires may be set in the open air or in contained sites and precautions to be observed by persons setting fires;

NOW THEREFORE the Council of The Corporation of the Township of Perth South enacts the following amendments:

1. **AMEND** Section 1. Definitions by adding:
"flying lantern" is a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended. Also known as a "sky lantern";
2. **AMEND** Section 3. Prohibitions, by adding:
(12) No person shall ignite or use a flying lantern.
3. **AMEND** Section 9. Fire Ban, by adding:
(2) No person shall open air burn or allow open air burning at any time during a burn ban.

NOW THEREFORE the Council of The Corporation of the Township of Perth South enacts as follows:

1. THAT the Mayor and the Clerk are hereby authorized and directed to execute on behalf of the Township of Perth South an amendment to regulate conditions under which fires may be set in the open air or in contained sites and precautions to be observed by persons setting fires.
2. THAT this By-law shall come into force and take effect on the final passing thereof.

READ a **FIRST** and **SECOND** time this 1st day of April 2014.

READ a **THIRD** time and **FINALLY PASSED** this 1st day of April 2014.



Mayor, Robert Wilhelm



Clerk, Lizet Scott

THE CORPORATION OF THE TOWNSHIP OF PERTH SOUTH

BY-LAW NO. 36-2008

**BY-LAW TO REGULATE CONDITIONS UNDER
WHICH FIRES MAY BE SET IN THE OPEN AIR
OR IN CONTAINED SITES AND PRECAUTIONS
TO BE OBSERVED BY PERSONS SETTING FIRES**

WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, 1997 S.O. 1997, Chapter 4 provides that by-laws may be passed to regulate the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 130 of the Municipal Act S.O. 2001, c. 25 as amended provides that municipalities may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Section 2.6.3.4 of the Ontario Fire Code states, "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."

NOW THEREFORE the Council of The Corporation of the Township of Perth South **HEREBY ENACTS AS FOLLOWS:**

1. DEFINITIONS:

In this By-law:

"approved" means approved by the Fire Chief, unless otherwise stated;

"attended" means a responsible person suited for the task is in attendance at all times, with sufficient equipment (water, extinguishers, or other items) to control or extinguish the fire;

"barbecue" means a portable or fixed device designed and intended solely for the cooking of food in open air, but does not include outdoor fireplaces and campfires;

"building" means any structure used or intended for supporting or sheltering any use or occupancy;

"By-law Enforcement Officer" means a person appointed by the Council of The Corporation of the Township of Perth South to enforce the provisions of the by-law;

“contained site” means a circle of stones, bricks, concrete, or wheel rim, of a maximum diameter of 60cm (24 inches) and includes manufactured, non-combustible outdoor fire containers and shall also mean campfire or recreational fire. Examples of a contained site are provided in Schedule “A” of this By-law;

“cooking fire” means an open air fire used for the purpose of cooking food on a grill and includes a manufactured barbecue;

“fire ban” means a restriction or prohibition on open air and contained site fires due generally to extremely dry conditions and is issued by the Fire Chief;

“Fire Chief” means either the Fire Chief of the Township of Perth East Fire Department, the Fire Chief of the Blanshard-Biddulph Fire Department, the Fire Chief of the Town of St. Marys, or authorized designates;

“firewood” means clean, dry wood that has not been treated, painted or otherwise exposed to toxic material, cut to a maximum of 60cm (24 inches) in length so as to be easily situated within a “contained site”;

“flying lantern” is a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended. Also known as a “sky lantern”;

“FPPA” means the Fire Protection and Prevention Act, 1997, R.S.O. 1997, c.4, as amended, and the regulations enacted there as amended from time to time, or any Act or Regulation enacted in substitution therefore;

“highway” means a common and public roadway and includes any bridge, trestle, viaduct or other structure forming part of a highway and, except as otherwise provided includes a portion of a highway;

“imported materials” means materials such as brush, construction or landscape materials brought into the Township for the purpose of being disposed by burning.

“maintain” means to allow an open air fire to continue to burn and “maintained” has a corresponding meaning.

“open air fire” means any fire and may be a ‘contained site’ fire or an “open air controlled burn site” fire;

“owner” means the registered owner or any person, firm or corporation having control over, or possession, of any portion of the building or property under consideration and includes the persons in the building or property;

“permission” means permission to set and burn an “open air controlled burn” fire as granted by the Fire Chief;

“person” means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law;

“responsible person” means any adult person (18 years of age or older) who, in the opinion of the Municipal By-law Enforcement Officer and/or Fire Chief, is capable of exercising the required judgment and capable of performing the necessary actions to control a fire and prevent its unwanted spread;

“set” means to light an open air fire;

“smog alert” means an alert issued by the Ministry of Environment with respect to air quality;

“Township” means the municipal corporation of the Township of Perth South or the geographic area of the Township of Perth South, as the context requires.

2. PERMISSION TO BURN

- (1) The Fire Chief shall be notified of an Intent to Set an Open Air Controlled Burn not less than 30 minutes (1/2 hour) prior to the setting of the said open air fire, by the owner or owner’s designate, who shall be a person eighteen (18) years or older;
- (2) The Notification information, as set out in Schedule “B”, shall include:
 - (a) the name, municipal and mailing address, and phone number of the property owner and the applicant where applicable;
 - (b) the type of material the owner is proposing to burn and the proposed date(s) and time(s) of the burn; and
 - (c) such other information as may be required by the Fire Chief.
- (3) Permission to set an “Open Air Controlled Burn” may be issued for the burning of brush and other approved material as set out in this bylaw.

3. PROHIBITIONS

- (1) No person shall set or maintain or cause to be set or maintain any open air controlled burn, in the Township without having obtained permission.
- (2) No person shall leave an open air fire site unattended or unsupervised at any time.
- (3) No person shall set an open air fire before sunrise.

- (4) No person shall set or maintain an open-air fire after sunset.
- (5) Notwithstanding Sections 3. (3) and 3. (4), campfires in contained sites will be allowed before sunrise and after sundown.
- (6) No person shall burn materials that contain rubbish or create obnoxious odours to the neighbourhood, or violates the requirements of the Ministry of Environment, or any other Provincial or Federal Legislation including materials such as tires, plastics, asphalt products, painted or stained wood, plywood and other laminates, pressure treated wood, or other hazardous substances.
- (7)
 - (a) No person shall fail to adhere to the requirements of this by-law, or any conditions set down by the Fire Chief at the time permission to burn is granted.
 - (b) No person shall at any time lose control of a fire.
- (8) No person shall undertake an open air fire in an area that would endanger any buildings or structures, and any persons located in or occupying the buildings or structures.
- (9) No person shall use or cause to be used any fuel burning barbeque or open air fire of any kind on balconies of multi-residential buildings unless the appliance is approved for such use by the governing body of the product's manufacturing industry.
- (10) No person shall set a fire so as to cause any or all of the following:
 - (a) Smoke and/or odour nuisance to neighbouring residences or buildings;
 - (b) A decrease in visibility on any highway or roadway; or
 - (c) A rapid spread of fire through grass, brush or any wooded area.
- (11) No person shall bring imported material to the Township for the sole purpose of disposing of this material by burning.
- (12) No person shall ignite or use a flying lantern.

4. GENERAL

- (1) In this section, the provisions of Section 427 of the Municipal Act shall apply:
 - (a) Every person who sets a fire in contravention of this By-law or who fails to extinguish a fire once ordered to do so by the Fire Chief shall, in addition to any penalty provided for herein, be liable to the

Township for all expenses incurred for the purpose of investigating, controlling and extinguishing any fire set or left to burn including vehicle, manpower and other firefighting costs, and such expenses may be recovered by court action or in a like manner as municipal taxes.

- (b) The Fire Chief or his designate is hereby authorized to enter, at all reasonable times and upon any property in the Township, in order to ascertain whether the provisions of this By-law are being obeyed. The Fire Chief or his designate is hereby further empowered to enforce or carry into effect the provisions of this By-law.
- (2) Permission to set and burn an open air fire is non-transferable.
- (3) The Fire Chief may grant permission to burn any other intended open air fire for other than the purposes mentioned.
- (4) Schedules "A" and "B" attached hereto, form a part of this By-law.

5. INDEMNIFICATION

All persons granted permission under this By-law shall indemnify and save harmless the Township of Perth South from any and all claims, demands, causes of action, losses, costs or damages that the Township of Perth South may suffer, incur or be liable for resulting from the issuance of fire permits as set out in this By-law or its predecessor, whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

6. REVOCATION

- (1) Permission granted to a person under this By-law may be revoked by the Fire Chief if, in the opinion of the Fire Chief, a dangerous condition exists in or near the site of the open air fire.
- (2) Permission granted to a person under this By-law may be revoked by the Fire Chief if the person fails to comply with the requirements of the approved permission and any other provisions of this By-law.

7. PENALTIES

- (1) Any person who contravenes any provision of this By-law is guilty of an offence and shall be liable, on conviction, to a penalty not exceeding \$5000 (five thousand dollars) exclusive of costs, and the provisions of the Provincial Offences Act, R.S.O. 1990 Chapter P. 33, as may be amended from time to time, shall apply to the said fire.

8. VALIDITY

If a court of competent jurisdiction declares any provision or part of a provision of this by-law to be invalid or to be of no force and effect, it is the intention of Council that the remainder of the by-law shall continue to be in force.

9. FIRE BAN

(1) Despite the existence of an approved open-air fire, the Fire Chief may issue a "Fire Ban" and cause to be extinguished any or all fires until such conditions as the Fire Chief may indicate are met.

(2) No person shall open air burn or allow open air burning at any time during a burn ban.

10. SHORT TITLE

This by-law shall be known as the "Open Air Fire By-law".

11. EFFECTIVE DATE

This By-law shall come into force and take effect upon the final passing thereof.

READ a FIRST and SECOND TIME this 6th day of May, 2008.

READ a THIRD TIME and PASSED this 6th day of May, 2008.

Original Signed By:

Ronald McKay, Reeve

Original Signed By:

Muriel King, Clerk

THE CORPORATION OF THE TOWNSHIP OF PERTH SOUTH

By-law Number 36-2008

TITLE: Being a by-law to regulate open air fire

Part 1 *Provincial Offences Act*

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Failure to obtain burn permit	3 (1)	\$100
2.	Failing to attend at all times during open air burning	3(2)	\$100
3.	Open air burning outside of permitted hours	3 (3)&(4)	\$100
4.	Burning materials that contain rubbish or create obnoxious odours to the neighbourhood, or violates the requirements of the Ministry of Environment, or any other Provincial or Federal Legislation	3(6)	\$100
5.	Burning causing danger to a person or structure	3(8)	\$100
6.	Burning on balconies	3 (9)	\$100
7.	Burning causing smoke and/or odour nuisance to neighbouring residences or buildings	3(10) (a)	\$100
8.	Burning causing decreasing visibility on highway	3(10) (b)	\$100
9.	Burning causing a rapid spread of fire through grass, brush or wooded area	3(10) (c)	\$100
10.	Burning imported materials	3(11)	\$100
11.	Burning during a burn ban	9(2)	\$100

NOTE: The penalty provisions for the offences listed above is Section 7 (1) of By-law 36-2008, a certified copy of which has been filed.