

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW 2021-77

A By-law to Regulate "Open Fires"

WHEREAS the *Fire Protection and Prevention Act, 1997*, as amended, and *The Municipal Act, 2001*, as amended, provides that the Council of a Municipality may pass By-Laws regulating the setting of fires, including establishing the times during which such fires may be set, as well as to regulate or prohibit setting and requiring persons to do things respecting the setting of fires;

AND WHEREAS this Council of the Corporation of the Town of Wasaga Beach deems it appropriate to pass such a By-Law to protect the residents and businesses from the adverse effects and nuisances that can be created by open fires;

THEREFORE this Council of the Corporation of the Town of Wasaga Beach hereby enacts as follows:

1. DEFINITIONS: In this By-Law:

- 1.1 **"Campfire"** shall mean a small fire set in an **"Outdoor Burning Device"** designed to burn firewood.
- 1.2 **"Dry Seasoned Firewood"** shall mean commercially produced charcoal or briquettes, kindling, or dry wood that has been aged for at least a one (1) year period, but does not include any type of building material.
- 1.3 **"Extinguish(ed)"** shall mean to put out or quench a fire completely, ensuring that no smoke, hot or glowing embers are to remain.
- 1.4 **"Fire"** shall also mean a campfire, a bonfire, or open air burning, and for the purposes of this By-Law, shall mean the burning of dry seasoned firewood, and shall include the embers, ashes, coals, etc.
- 1.5 **"Fire Chief"** shall mean the Fire Chief of the Town of Wasaga Beach or his/her designate.
- 1.6 **"Kindling"** shall mean small pieces of dry wood, twigs or sticks normally used to start a fire.
- 1.7 **"Officer"** shall mean the Fire Chief or his/her designate, a Municipal Law Enforcement Officer.
- 1.8 **"Open Air"** shall mean and shall include any open place, yard,

field or construction area which is not enclosed by a building or structure.

- 1.9 **"Owner"** shall mean 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.
- 1.10 **"Outdoor Burning Device"** includes any non-combustible device enclosed on all sides and constructed of masonry, concrete, stone, heavy gauge metal or a commercially produced fire containment product such as a chiminea or fire bowl.
- 1.11 **"Nuisance"** shall mean a fire that is poorly maintained and creating excessive smoke, smell, airborne sparks, or embers that are likely to disturb others as determined by an investigating Officer. A well maintained fire which is not causing excessive smoke, smell, airborne sparks or embers shall not be considered a nuisance.
- 1.12 **"Town"** shall mean the Corporation of the Town of Wasaga Beach.

2. General Provisions Applicable to All Properties:

- 2.1 No person shall set or maintain a fire unless it is enclosed in an outdoor burning device as defined in this By-Law.
- 2.2 No person shall burn anything other than kindling and dry seasoned firewood.
- 2.3 No person shall set or maintain a fire unless the necessary tools and/or water to extinguish same, is within three (3) meters of the location of the fire.
- 2.4 No person shall set or maintain a fire exceeding one (1) meter in diameter, nor shall the fire exceed one-half (1/2) a meter in height.
- 2.5 No person shall set or maintain a fire without three (3) meters of space free and clear of combustible material around the perimeter.
- 2.6 No person shall set a fire within three (3) meters of any building, structure, tent/trailer, hedge, fence, overhead wire or lot line.
- 2.7 All outdoor burning devices shall be located on a non-combustible surface extending beyond the outdoor burning device to a distance equal to the height of the device.
- 2.8 No person shall set or maintain a fire between 1:00 am and 6:00 am.
- 2.9 No person shall leave a fire attended by anyone under the age of sixteen (16).

- 2.10 No person shall leave a fire without ensuring it is properly extinguished.
- 2.11 No person shall set or maintain a fire when a fire ban is in effect.
- 2.12 No person shall set or maintain a fire when there is no air movement or when Environment Canada issues an air quality advisory for this area.
- 2.13 No person shall set or maintain a fire in rain, fog or when the wind velocity is reported to be greater than twenty-four (24) kilometers per hour.
- 2.14 No person shall set or maintain a fire that in the opinion of an investigation officer is creating a nuisance (see definition).
- 2.15 No person shall fail to extinguish a fire when such fire is creating a nuisance.
- 2.16 No person shall set a non-confined fire unless written permission has been received from the Fire Chief.
- 2.17 No person shall set or maintain a fire on land owned by the Town without first obtaining written permission to do so from the Fire Chief.
- 2.18 The owner of property on which a fire has been set or permitted to burn shall be deemed to have permitted the fire to burn and assumes all responsibility and liability.

3. Additional Provisions specific to Commercial Properties:

- 3.1 The owner or operator of such business(es) shall ensure fires are maintained pursuant to the General Rules as specified in Sections 2.1 to 2.18.
- 3.2 When conducting an inspection on an application/renewal for a Business License for a tourist establishment or tourist & trailer camp/campground, the Fire Chief shall determine, in consultation with the owner or operator, the number of fires to be allowed. In making this determination the Fire Chief may require drawings or site plans, or set out requirements to ensure maximum public safety and to prohibit any nuisance as defined in this By-Law. The decision of the Fire Chief or designate shall be final.
- 3.3 No owner or operator of tourist establishment or tourist & trailer camp/campground, shall exceed the number of fires as determined by the Fire Chief under Section 3.2 above.
- 3.4 The owner or operator of such business(s) affected by Section 3.2 shall make every effort to have their tenants/occupants utilize barbecues, hibachis, camp stoves, or fires using coal or briquettes,

for the purposes of cooking food, in an effort to minimize smoke pollution within the Town of Wasaga Beach.

4. FIRE CHIEF EXEMPTIONS

- 4.1 The Fire Chief may exempt any person(s) or organizations from any provisions of Section 2 of this By-law (General Provisions Applicable to All Properties), on such terms and conditions deemed appropriate to maintain the intent of the By-law, where:
 - a) such request is submitted in writing and contains sufficient particulars for a proper review and decision, and;
 - b) such request is for a temporary exemption, that does not exceed a six-month duration.
- 4.2 The Fire Chief or an Officer may vary, cancel or rescind at any time, any exemptions issued.
- 4.3 Such notification under 4.2 above may be given orally and/or in writing.
- 4.4 The Fire Chief shall issue such exemptions, in writing, and shall maintain a record of such exemptions and shall forward a copy of the exemption to the Clerk and the Municipal Law Enforcement Department .
- 4.5 The decision by the Fire Chief to refuse an exemption request shall be final and not subject to an appeal process.
- 4.6 Any person(s) or organization that receives an exemption, shall comply with any terms and conditions, if any, that are established with exemption, and shall comply with all other provisions of the Bylaw for which an exemption was not granted.
- 4.7 Any person(s) or organization that receives an exemption shall maintain a copy at any time/location the exemption applies and shall immediately produce a copy of such exemption, on request of the Fire Chief, an Officer or Police Officer, for examination.

5. ENTRY AND INSPECTION:

- 5.1 An Officer may, at any time, enter onto land to determine whether this By-Law is being complied with and direct that action be taken to bring the fire into compliance, including ordering that the fire be extinguished.
- 5.2 Every owner shall permit the Officer to inspect any land for the purpose of determining compliance with this By-Law.

6. OBSTRUCTION:

- 6.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-Law.
- 6.2 Any person who has been alleged to have contravened any of the provisions of this By-Law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

7. PENALTY

- 7.1 Any person who contravenes any of the provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990, ch 33*, as amended.

8. ADMINISTRATION AND ENFORCEMENT:

- 8.1 An Officer is hereby vested with the authority of enforcing the provisions of this By-Law.
- 8.2 The Fire Chief may revoke the privilege of burning under this by-law if a property owner is unable/unwilling to meet the provision of this by-law or if they have demonstrated repeated non-compliance for the by-law.
- 8.3 Upon the Fire Department extinguishing a fire that is not in accordance with any section of this By-Law, the owner is responsible to pay the full associated costs including firefighting labour, consumable equipment and supplies and apparatus as determined by the Fire Chief, pursuant to the Fees and Charges By-law.

Any unpaid charges will be added to the tax roll of the subject property and be collected in the same manner as municipal taxes.

9. INDEMNIFICATION:

- 9.1 The owner shall indemnify and save harmless the Corporation of the Town of Wasaga Beach from any and all claims, demands, causes of action, losses, costs or damages that the Town may suffer, incur or be liable for resulting from the open air fires as set out in the By-Law whether with or without negligence on the part of the owner or the owners agent.

10. VALIDITY AND SEVERABILITY:

- 10.1 Should any provision of this By-Law be declared invalid by a Court of competent jurisdiction such offending provision shall be deemed

to have been severed from this By-Law and the remaining sections shall continue in full force and effect and shall remain valid and binding.

11. REPEAL:

11.1 That By-Law #2007-64 and By-law #2014-48 are hereby repealed.

12. EFFECTIVE DATE:

This By-Law shall come into full force and effect on the date of its final passing.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 28TH DAY OF SEPTEMBER, 2021.

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Nina Bifulchi, Mayor

Dina Lundy, Director, Legislative Services & Clerk

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