

CORPORATION OF THE TOWN OF LAKESHORE

BY-LAW NUMBER

61-2010

**A BY-LAW TO REGULATE THE SETTING OF OPEN AIR
BURNING AND IDENTIFY THE PRECAUTIONS OBSERVED
FOR SUCH FIRES WITHIN THE TOWN OF LAKESHORE**

WHEREAS, the Municipal Act 2001, S.O. 2001, c.25, as amended and the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended, authorizes a council of a municipality to pass By-laws regulating fire prevention, including the prevention of the spreading of fires and regulating the setting of open air burning, as well as the establishing of the times during which open air burns may be set.

NOW THEREFORE, THE COUNCIL OF THE TOWN OF LAKESHORE ENACTS AS FOLLOWS :

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INTERPRETATION

1. In this By-law:

"Camp Fire" is confined within a Container having a maximum burn area of 24 inches (61 cm) in any horizontal and vertical direction;*(intent is this will apply to typical residential backyard camp fires and refers to the size of the pile of wood, not the flame height)*

"Campground" means a parcel of land used or maintained as an overnight tenting or camping area, where people are temporarily accommodated in tents, trailers or similar facilities, whether or not a fee or charge is paid for the rental thereof, but does not include a mobile home or a mobile park. *(intent that this applies to "known" zoned camp grounds as of 2010; Rochester Place, Lighthouse Yacht Club, Smugglers Marina, Cove Marina, Quinlan Marina and Stoney Point Trailer Park)*

"Container" means any earth pit, structure or enclosure of brick, cement, metal or other similar material in which a Fire may be set;

"Council" means the council for the Corporation of the Town of Lakeshore.

"Domestic" means by design and intention to be used in or around the home or household and is rated by ULC or CSA;

"Enclosed Fire" takes place within a burn barrel or container of similar construction and size such as a 45 gallon drum and covered at all times;

(intent that the 45 gallon drum was the only container considered for this description as no other style has been encountered)

"Environmental Protection Act" means the Environmental Protection Act, R.S.O. 1990, c.E.19, as amended;

"Equipment and Resources" means a water supply at the burn site to control and/or extinguish the size of the fire if required and/or sufficient personnel and equipment such as rakes, shovels, backhoes, bulldozers or front-end loaders; *(intent that the equipment and resources must match the fire size. A garden hose for a 3'x3'x3' wood pile is not adequate for immediate fire extinguishment. Fire location must also be considered – open field with no combustibles other than pile to be burnt does not need enough resources for immediate fire suppression whereas a back yard campfire does).*

"Farmer" means an individual who's primary occupation is farming that consists of lands and buildings used to grow crops and/or rearing of animals within an area zoned agricultural; *(intent: although the descriptor says "primary occupation" it is understood that many farmers have a primary occupation and the farming is a second occupation. This is acceptable.)*

"Fire" means Camp Fire, Enclosed Fire and Open Air Fire

"Fire Chief" means the Fire Chief for the Town of Lakeshore or designate;

"Fire Department" - means the Fire Department of the Town of Lakeshore;

"Open Air Fire" is set in the Open Air by any person within the boundaries of the Town, but does not include an Enclosed Fire or Camp Fire;

"Ontario Fire Code" means O.Reg. 213/07 as amended made under the Fire Protection and Prevention Act 1997, c.4, as amended;

"Open Air" means any open place, yard, field, lot, part lot or construction area which is not enclosed by a building or structure; *(intent that this bylaw does not regulate wood burning stoves and fire places located inside structures. Only outdoor or "open air" fires are intended)*

"Owner" means the registered owner or any person having control over any portion of the building or property under consideration; *(intent: in the case of farming, the person having control can be the share crop farmer working the property for the owner or in the case of a tenant living in a rental property the tenant has control. If fee for services costs are levied by the fire service, these will be charged against the land owner (rate payer) who is ultimately responsible for care and control of their property)*

"Permit" means permission from the Fire Chief to set a Fire;

"Town" means the Corporation of the Town of Lakeshore;

"Vegetation" means plants collectively. *(intent is vegetable matter or vegetation incidental to typical farming operations which would include; brush, wheat stubble, corn stubble, tree branches/ stumps and vegetation debris from excavated farm ditch and drain cleaning. This does not include leaves, cat tails and phragmites)*

GENERAL PROVISIONS

- 2.1 No person under 18 years of age shall set, maintain or supervise any Fire *(intent is that fire operator is a mature, competent individual and aware of fire hazards and safety precautions. If the fire officer is satisfied that an operator*

who is less than age 18 can demonstrate the maturity and competency to operate a fire they may be authorized to continue)

- 2.2 No person shall set any Fire on highways, associated ditches, commercial or industrial properties or municipal property within the Town of Lakeshore. *(Intent that no fires are permitted on or along (as in ditches) any roadway/ highway as well as on any commercial/ industrial zoned properties or on any municipal property)*
- 2.3 No person shall set or allow any Fire to burn:
- a) with the aid of flammable or combustible liquids or accelerants of any kind;
 - b) unless the Equipment and Resources, as defined within this By-law, are available at the fire site at all times during the fire; *(intent: anyone starting a fire "must" have adequate means at the fire location to provide extinguishment for the size of fire permitted. Camp fires sizes as defined must have a pail(s) of water or a garden hose at the fire, open burn permits require enough resources to extinguish the fire and are based on wood pile size from appropriate water supplies to shovels with dirt to excavating equipment)*
 - c) on any site, or in the vicinity of any site, where construction or related activities are carried out; *(intent is that no spark, ember or fire debris will travel into stored construction materials or into a building under construction so as to create a fire condition)*
- 2.4 No person shall maintain any Fire when the wind is in such direction or force to cause any or all of the following:
- a) Smoke, which causes annoyance, irritation or interferes with the natural enjoyment of persons on adjacent properties or decreases the visibility on any highway; *(a fire will always generate some smoke and based on the bylaw requirements regarding only clean dry wood or charcoal be used along with the distance setbacks for smoke dispersal, the smoke impact to adjacent properties should be minimal. The minimal smoke in conjunction with little to no wind makes acceptable conditions and is not in contravention of this bylaw. It is understood that people will be able to smell the camp fire and not see the smoke. Depending on lot size of the fire location, wind speed factors and direction as well as the proximity to adjacent down wind neighbouring windows the fire may have to be extinguished. There will be times when wind speed and direction will not allow a residential camp fire when the smoke impacts a neighbour and camp fire owners must be aware of this condition to be courteous to their neighbours. Any smoke generated from approved open burns cannot cause a smoke visibility hazard on any road within the municipality. Smoke annoyance and tolerance level are different for everyone. We must be compassionate to those who have complained and yet be objective as to whether the camp fire meets the intent of the bylaw. Town council required that reasonable fires be allowed knowing that smoke complaints will exist)*
 - b) Spread of the Fire through any grass, leaves, brush, ditch banks or any other vegetated areas; *(intent that any fire location must have these safety factors considered)*

- 2.5 No person shall set or maintain any Fire when rain or fog is present, or at times that are deemed by the Ministry of the Environment as Smog Alert Days or when other adverse atmospheric conditions or local circumstances warrant; *(smoke will not disperse properly during these conditions)*
- 2.6 No person shall set Fire to dispose of materials or waste from commercial, industrial, construction or demolition sites. These materials or wastes shall not be transported to residential or agricultural areas for burning purposes; *(historically we had trouble with demolition materials being transported to a local farm site for burning. This included burning plastic insulation off copper wire for profit. This section prohibits these types of activity)*
- 2.7 No person shall set or allow an Open Air Fire to burn without first having obtained a Permit from the Fire Chief.
- 2.8 Notwithstanding the issuance of a Permit in accordance with this By-law, no person shall set or maintain an Open Air Fire:
- a) unless the person to whom the Permit has been issued or such other person as may be designated in the Permit, is in attendance at the fire until such Fire has been completely extinguished; *(it is expected that the individual will stay within a reasonable site line of their fire to ensure fire safety. An open dirt field setting where a brush pile is burning does not require constant presence depending on its distance to other combustibles and nearby roads).*
 - b) When the material to be burned is greater than 3 feet (91 cm) by 3 feet (91 cm) by 3 feet (91 cm) or the limit set by the Fire Chief; *(wood piles larger than this size require greater setback distances as determined by fire administration)*
 - c) When the distance is less than 21 feet (7 meters) or the limit set by the Fire Chief from any building, structure, hedge, fence, roadway of any kind or nature, overhead wiring or property line. *(smaller setback distances pose fire and smoke and ember dispersal risks depending on the location. Fire admin must attend to consider whether smaller setbacks can be considered)*
 - d) After sunset and prior to sunrise on the day(s) as specified by the Permit; *(this only applies to open burning. Camp fires and domestic devices have no time limits)*
 - e) In contravention of the Ontario Fire Code, the Environmental Protection Act, or any other regulatory requirements of the Province of Ontario or the Government of Canada
- 2.9 A Farmer who intends to set or maintain an Open Air Fire on a specified day for disposal of vegetable matter or vegetation on farm lands that is normal and incidental for farming purposes shall apply for a Permit to cover the time period of the proposed fire; *(all open burning including agricultural settings require a permit. This ensures we have a record of the burn for fire dispatch with the intent to eliminate unnecessary emergency responses to approved open burning (pile sizes equal to and larger than 3'x3'x3')*

EXCEPTIONS

- 3.1 The provisions of this By-Law shall not apply to the the Town's officers and employees while in the discharge of their duties;

- 3.2 Domestic barbeques and permanent outdoor fireplaces used solely for the cooking of food on a grill and domestic personal warmth devices where the fuel used is natural gas / propane / charcoal or clean dry wood do not require a Permit;
- 3.3 Camp Fire(s) do not require a Permit provided that:
- a) the provisions contained in Sections 2.1 through to and including 2.6, above, are met; *(fire safety and environmental concerns)*
 - b) all materials to be burned are contained within the perimeter of the container; *(wood pile sizes and setback distances were established considering heat transfer potential to surrounding objects and smoke and ember dispersal. Changing those sizes/ setbacks will impact those safety and environmental considerations. Unless fire admin approves otherwise, sizes and distances must be adhered to)*
 - c) the size of the burn area is no larger than 2 feet (61 cm) by 2 feet (61 cm) by 2 feet (61 cm); *(same as notes above)*
 - d) The center of the Camp Fire is to be a minimum of 15 feet (4.5 m) away from any property line and a minimum of 10 feet (3 m) from permanent combustible structures or objects or the limit set by the Fire Chief. Campgrounds, as permitted under the zoning bylaw, are exempt from this paragraph (3.3 d) and paragraph 2.4a provided the size of the burn area is smaller than 18 inches (46 cm) by 18 inches (46 cm) by 18 inches (46 cm); and *(intent: same notes as 3.3b. In the case of camp grounds the wood pile size has been downsized in consideration of the close proximity to adjacent camp sites and structures and must be strictly adhered to)*
 - e) Only clean dry wood or charcoal is being burned. *(intent that minor smoke will be generated with these combustibles). If wet wood or other combustible is being used the fire will be extinguished.*
- 3.4 Enclosed Fire(s) do not require a Permit provided:
- a) the provisions contained in Sections 2.1 through to and including 2.6, above, are met;
 - b) the fire is contained and covered at all times by a suitable metal wire mesh;
 - c) the metal wire mesh being used to cover the fire has grid openings not exceeding .25 inch (6mm) in size; *(a 45 gallon drum fire causes a chimney affect forcing fire embers and debris higher into the air for dispersal than a ground level fire. The mesh screen contains the embers within the barrel)*
 - d) the center of the Enclosed Fire is a minimum of fifteen (15) feet (4.5 m) away from any property line and a minimum of 10 feet (3 m) from permanent combustible structures or objects or the limit set by the Fire Chief; and *(wood pile sizes and setback distances were established considering heat transfer potential to surrounding objects and smoke and ember dispersal. Changing those sizes/ setbacks will impact those safety and environmental considerations. Unless fire admin approves otherwise, sizes and distances must be adhered to)*
 - e) Only clean dry wood is being burned.

ENFORCEMENT

- 4.1 The Fire Chief or his designate shall administer this By-law;

- 4.2 Enforcement of this By-law is the responsibility of the Fire Chief, any Police Officer or any By-law Enforcement Officer;
- 4.3 Permission for a Fire may be revoked at any time by the Fire Chief when there is a breach of any of the provisions of this By-law or where, in the Fire Chief's opinion there is a danger of such Fire spreading or otherwise endangering life or property. Immediately upon receiving notice of cancellation or suspension, the owner shall extinguish the Fire;
- 4.4 Any Person who fails to comply with provisions of the By-law or who fails to extinguish a Fire once notification to do so has been given by the Fire Chief shall be liable to the Municipality for all expenses incurred for the purpose of controlling and extinguishing the fire;
- 4.5 The Fire Chief may refuse to issue or may revoke any or all Permits; or where in the opinion of the Fire Chief a situation exists that is not appropriate for burning, a Fire ban may be issued for any or all areas within the Town of Lakeshore. *(fire bans may be issued for situations such as but not limited to extreme dry conditions; a property or properties that do not conform to the bylaw or in areas of continuous neighbour conflict)*
- 4.6 Permits/ permission may be issued over the phone by calling the Lakeshore Fire Department Administration at 519-728-0550 Monday through Friday from 08:30 to 16:30 hours. Weekend permits must be requested during regular business hours.

COST RECOVERY

- 5.1 Notwithstanding any other provision of this By-law and in addition to any other remedy the Town may have, pursuant to the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, the Town shall be entitled to recover all costs incurred by the Fire Department in extinguishing a Fire set in contravention of this By-law. The rates to be charged for extinguishing a Fire set in contravention of this By-law as set out in Schedule "A" are set in accordance with the Tarriffs and Fees By-law. *(intent to recover costs includes the Schedule "A" attached as well fire fighting foam and other justifiable discretionary costs when applicable. Cost recovery opportunities will be at the discretion of the fire chief and will be dependant on many factors including situation, previous history, resources used and impact to fire service delivery capability for other residents during attendance at this call)*

SEVERABILITY

- 6.1 Should any section, subsection, clause or provision of this By-law be declared by a court of competent jurisdiction to be invalid, the said section shall not affect the validity of this By-law as a whole or any part thereof, other than the part so declared to be invalid.

REPEALS

- 7.1 All By-laws regulating Open Air Fires passed by the former Town of Belle River or the former Townships of Lakeshore, Maldstone, Rochester, Tilbury North, or Tilbury West are hereby repealed.

EFFECTIVE DATE

8.1 This By-law shall be deemed to have come into force and take effect on the date of the final passing thereof.

THIS BY-LAW WAS READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 15 DAY OF JUNE, 2009.

**TOM BAIN
MAYOR**

**MARY MASSE
CLERK**

/sr

**Schedule "A"
To
By-law 61-2010**

Open Burn By-law Cost Recovery Formula	
Fire Administration only attends location	1/2 the current MTO rate for a single manned fire apparatus
Camp Fire extinguishment only	1/2 the current MTO rate for a single manned fire apparatus
Fire Extinguishment using less than 6 FF	Current MTO rate for a single manned fire apparatus
Fire Extinguishment using greater than 6 FF and less than 12 FF	Current MTO rate for 2 manned fire apparatus
Fire Extinguishment requiring a 2 station response	Current MTO rate for 4 manned fire apparatus

Intent - (Recovery formula is based on the fire department resources required to control the fire and will be approved by the fire chief.) This also applies to repeat (and on occasion first time) site visits when the fire does not meet the requirements of the bylaw (includes bylaw approved and unapproved burning).

If fire admin is called to a location by complaint for the purpose of assessing conformance to the bylaw and/ or to extinguish a fire regulated under this bylaw the fire admin attendance rate may be applicable.

Some examples but not considered all inclusive;

If a single station responds to a camp fire complaint and the owner refuses to put the fire out at our request and we suppress using FD equipment the owner may be charged the ½ single manned rate.

Any repeat site visits for continuous valid smoke complaints where the owner puts the fire out can be considered as the admin rate.

Any unapproved open burn larger than the 2'x2'x2' camp fire that requires 6 or less staff to control the fire no matter how many vehicles from that single station respond will be the single manned fire apparatus rate.

Any unapproved open burn larger than the 2'x2'x2' camp fire that requires 6 to 12 staff to control the fire will be 2 times the single manned rate.

Any unapproved open burn larger than 2'x2'x2' camp fire that resulted in a 2 station response will be 4 times the single manned rate. (examples; reported as a possible structure fire or required more than 12 FFs and a 2 station response to control the fire).

All potential recovery charges will consider the length of time on scene as calculated for normal MTO rate and charge schedules. Foam & other incidental costs may be added to the recovery calculations.