

**THE CORPORATION OF THE TOWNSHIP OF LEEDS AND THE
THOUSAND ISLANDS**

BY-LAW 22-006

**BEING A BY-LAW TO REGULATE THE SETTING AND MAINTAINING OF
OPEN-AIR BURNING FOR THE CORPORATION OF THE TOWNSHIP OF
LEEDS AND THE THOUSAND ISLANDS**

WHEREAS Section 7.1 of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 as amended, authorizes the 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 regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS the Ontario Fire Code, O.Reg. 213/07, Division B, Article 2.4.4.4. provides that open-air burning shall not be permitted unless approved;

AND WHEREAS Section 391 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of the municipality and for the use of the municipality's property, including property under its control; and

AND WHEREAS Section 398 of the Municipal Act, 2001, as amended, authorizes Council to recover by By-Law; in default of its being done by the Person directed or required to do it, by action, or in like manner as municipal taxes;

AND WHEREAS Section 425(1) of the Municipal Act, 2001, as amended, permits Council to pass By-Laws providing that any Person that contravenes any By-Law of the Municipality is guilty of an offence;

AND WHEREAS The Council of the Corporation of the Municipality of the Township of Leeds and the Thousand Islands is desirous of amending By-Law 20-047 to regulate with more clarity the setting and maintaining of Open-Air Burning and reduce the negative health effects, public nuisance, and negative environmental impacts arising from such fires.

NOW THEREFORE the Council of The Corporation of the Municipality of the Township of Leeds and the Thousand Islands hereby enacts as follows:

1. DEFINITIONS

For the purposes of this By-Law,

- a) "Adverse Effect" shall mean one or more of:
 - i. Impairment of the quality of the natural environment for any use that can be made of it;
 - ii. Injury or damage to property or to plant or animal life;
 - iii. Harm or material discomfort to any Person;
 - iv. A negative effect on the health of any Person;
 - v. Impairment of the safety of any Person;
 - vi. Rendering unfit any property for plant, animal, or human use;
 - vii. Loss of enjoyment of normal use of property; and
 - viii. Interference with the normal conduct of business.
- b) "Agricultural Fire" shall mean an open-air burn that is set and maintained by a registered Farming Business.
- c) "Brush Pile Fire" shall mean an open-air burn set and maintained solely for the purpose of burning wood, tree limbs, leaves, and branches.
- d) "Campfire" shall mean an open-air burn that is set and maintained solely for the purposes of cooking food, providing warmth or for recreational enjoyment.
- e) "Campground" shall mean an area of land owned and/or operated by a Person and that contains camp sites for the purpose of providing overnight accommodation for tents and trailers in exchange for monetary payment.
- f) "Campground Permit" shall mean an open-air burning permit authorizing open-air burning at a Campground.
- g) "Conditional Permit" shall mean a permit requested for areas located in Fire Zone 1.
- h) "Council" shall mean the elected Council of the Corporation of the Township of Leeds and the Thousand Islands.
- i) "Dangerous Conditions" shall mean:
 - i. A lack of precipitation which, in the opinion of the Fire Chief, increase the risk of the spread of fire;
 - ii. Winds more than 25km/hr;
 - iii. The issuance, by the Fire Chief, Fire Marshall, or other fire officials in the exercise of their statutory powers, of a Fire Ban or prohibition against any, and all open-air burning; or
 - iv. Any other condition declared by the Fire Chief to be a dangerous condition from time to time, which increases the risk of the spread of fire.
- j) "Farming Business" shall mean a farming business as defined in the Farm Registration and Farm Organizations Funding Act, 1993, as amended.
- k) "Fire Ban" shall mean the terms described in Part 5.
- l) "Fire Chief" shall mean the Fire Chief of the Township of Leeds and the Thousand Islands Fire Service and their designate.

- m) "Fire Department" shall mean the Township of Leeds and the Thousand Islands Fire Service or any fire department under contract or agreement to provide service to the Township of Leeds and the Thousand Islands.
- n) "Fire Zone 1" shall mean any settlement area within the Municipality, including but not exclusive to, Seeley's Bay, Lyndhurst, Ivy Lea, Rockport, and Lansdowne, or any other area determined by the Fire Chief to pose a higher risk of fire spread resulting from building density and proximity. Permits for these areas can be requested on a case-by-case basis and must adhere to the conditions defined under "Conditional Permits".
- o) "Fire Zone 2" shall mean any area within the Municipality that is not within Fire Zone 1.
- p) "Household Waste" shall mean combustible material such as but not limited to plastics, polyethylene terephthalate (PET), paints, oils, solvents, rubber, insulation, batteries, acids, polystyrenes (Styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fabrics, diapers, hazardous wastes and other materials as defined in the Environmental Protection Act and all other similar and like materials; but shall not include untreated wood and wood fibre products such as unlaminated paper and cardboard and boxboard, brush, and leaves.
- q) "Incinerator Fire" shall mean an open-air burn set and maintained in a container designed for incineration purposes and constructed completely of non-combustible material.
- r) "Municipality" and "Township" shall mean the Corporation of the Township of Leeds and the Thousand Islands.
- s) "Nuisance Conditions" shall mean an open-air burn that causes smoke, odour, and/or airborne sparks or embers, alone or in combination, that is likely to, or does, one or more of the following:
- i. Disturb others;
 - ii. Reduce visibility on a highway, roadway, or private driveway;
 - iii. Create a "Dangerous Condition";
 - iv. Produce an "Adverse Effect"; or
 - v. Cause inconvenience or discomfort to others in the vicinity of the open-air burn.
- t) "Open-air Burning" shall mean the burning of materials such as untreated/unpainted wood, tree limbs, branches, and other approved materials, where the flame is not wholly contained and includes:
- i. Campfires;
 - ii. Outdoor Appliance fires;
 - iii. Outdoor Fireplace fires;
 - iv. Agricultural burns;
 - v. Approved incinerators;
 - vi. Brush Pile fires; and
 - vii. Does not include the use of appliances with mechanical shut-offs (e.g. propane or natural gas appliances).

- u) "Outdoor Appliance" shall mean a listed wood burning device that is CAN/ULC or other accredited agency approved, or approved by the Fire Chief, and:
 - i. is made of non-combustible material; and
 - ii. is enclosed on all sides with either solid material or non-combustible spark arresting material (e.g., metallic link/mesh such as found in a fire-bowl).
- v) "Outdoor Fireplace" shall mean a manufactured, non-combustible enclosed container designed to hold a small fire for decorative purposes and the size of which does not exceed 1 metre in any direction (e.g., chiminea).
- w) "Ontario Fire Code" shall mean Ontario Regulation 213/07 made under the Fire Protection and Prevention Act S.O 1997, Chapter 4, as amended.
- x) "Permit" shall mean a calendar-year permit issued by the Municipality or the Fire Chief, signifying permission to set and maintain, or allow to be set and maintained an open-air burn and establishing the conditions under which the permission is granted.
- y) "Person" shall mean any individual, association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representative thereof.
- z) "Prohibited materials" shall mean any materials which are prohibited by the Environmental Protection Act, R.S.O. 1990, Chapter E.19, as amended, and includes but is not limited to household waste, rubber or rubber products, plastic, or plastic materials.
- aa) "Sky Lantern" shall mean any unmanned device which relies on an open flame or other heat source to heat air within it with the intention of causing it to lift into the atmosphere.
- bb) "Unfounded Complaint" shall mean a communication made to the Municipality or the Fire Chief for the purpose of reporting a breach of this By-Law that a Person knows, or ought reasonably to know, is false.

2. GENERAL PROVISIONS

- 2.1 Any Person within the Municipality wishing to set or maintain an open-air burn must be the owner of the land where the fire is set or must have written permission from the owner of said lands.
- 2.2 No Person shall conduct open-air burning on lands within the Municipality unless a Permit has been issued in respect to such open-air burning.
- 2.3 Notwithstanding any provisions herein, no Person shall set or maintain an open-air burn:
 - 2.3.1 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;
 - 2.3.2 Containing prohibited materials;

- 2.3.3 In any park owned or operated by the Municipality without the written permission of the Municipality;
 - 2.3.4 Unless the Person to whom the permit has been issued or such other Person as may be designated in the "Permit" is in attendance;
 - 2.3.5 Unless the Person holding the Open-Air Burn is in attendance and acting in a responsible and supervisory capacity until such time that the fire has been completely extinguished.
 - 2.3.6 Unless an effective extinguishing agent or device of sufficient size and with the capability of extinguishing the fire shall be immediately available for use;
 - 2.3.7 Where a Fire Ban has been declared and put in place by the Fire Chief; or
 - 2.3.8 Except in accordance with the provisions of this By-Law and the terms and conditions of a valid permit issued under this By-Law.
- 2.4 No Person shall cause or permit a Campfire, Agricultural Fire, Brush Pile Fire, Incinerator Fire, to be set or maintained unless located in Fire Zone 2.
- 2.5 No Person shall cause or permit an open-air burn to be set or maintained in a Campground unless the Campground has been issued a Campground permit under this By-Law.
- 2.6 No Person shall set or maintain an open-air burn when any of the following conditions exist or are created:
- 2.6.1 The possible spread of the fire beyond the approved burn site;
 - 2.6.2 Nuisance Conditions;
 - 2.6.3 Excessive smoke or any other Adverse Effect; or
 - 2.6.4 Any Dangerous Condition.
- 2.7 No Person shall commence or maintain an open-air burn when rain or fog is present, or weather conditions prevent the ready dispersion of smoke.
- 2.8 No Person shall set or maintain an Agricultural Fire unless it meets the following conditions or is otherwise approved by the Fire Chief:
- i. solely for the purpose of burning wood, tree limbs, branches, or other approved combustibles
 - ii. is located within the designated Fire Zone 2 areas:
 - iii. cannot exceed 6 metres in all directions;
 - iv. the open-air burning of windrows, grass, hay, straw or standing material shall not have a leading edge exceeding 20 metres (65.6 feet) and there must be sufficient personnel and other resources available to adequately contain said fire to a leading edge of no more than 20 metres; and
 - v. shall be a minimum 50 metres from any building, hedge, fence, overhead wires, trees, property lines, or other combustible materials.

2.9 No Person shall set or maintain a Brush Pile Fire unless it meets the following conditions or is otherwise approved by the Fire Chief:

- i. has a maximum size of 3 metres in all directions, or as otherwise; and
- ii. must be a minimum of 30 metres from any building, hedge, fence, overhead wires, trees, or other combustible materials, or property lines.

2.10 No Person shall set or maintain an Incinerator Fire unless it meets the following conditions or is otherwise approved by the Fire Chief:

- i. is placed atop not less than 4cm of sand or mineral soil extending not less than 30cm beyond its perimeter;
- ii. has a maximum volume of 202 litres;
- iii. has an outlet or exhaust opening covered by a screen having a mesh of not more than 5mm; and
- iv. shall be a minimum of 10 metres from any structure, building, road, property line, fence line, hedge, or other combustible material.

2.11 No Person shall set or maintain a Campfire unless it meets the following conditions or is otherwise approved by the Fire Chief:

- i. the ground has been completely cleared of combustible material and lined with a minimum thickness of 15cm of sand or mineral soil that extends a minimum of 30cm beyond the enclosed Campfire area;
- ii. is contained in an area of non-combustible material: metal, masonry, ceramic, or stone;
- iii. is constructed on private property;
- iv. is a minimum of 10 metres from any building, structure, hedge, fence, overhead wires, trees, property lines, or other combustible materials; and
- v. does not exceed 1 metre in all directions

2.12 No Person shall set or maintain an open-air burn within an Outdoor Appliance or Outdoor Fireplace unless it meets the following conditions or is otherwise approved by the Fire Chief:

- i. is a minimum of 5 metres from any building, structure, hedge, fence, overhead wires, trees, property lines, or other combustible materials; and
- ii. the material to be burned is clean dry wood in a single pile and does not exceed 45 centimeters in height, width, and length.

2.13 No Person shall set or maintain more than one open-air burn at any one time, without the written approval of the Fire Chief.

2.14 No Person shall file an Unfounded Complaint.

2.15 No Person shall conduct open-air burning between the time of 21:00 until 08:00 (9:00pm to 8:00am) each day.

2.15.1 The time indicated for no burning in section 2.15. does not apply to a Campfire, Outdoor Appliance, or Outdoor Fireplace unless otherwise prohibited under a Fire Ban.

2.16 No Person shall set off fireworks or use Sky Lanterns during a Fire Ban.

3. ISSUANCE OF PERMIT

- 3.1 The issuance of a Permit may require the prior inspection of the proposed burn site by the Fire Chief.
- 3.2 In applying for a Permit, no Person shall furnish false or misleading information.
- 3.3 Permits must be obtained online at LTI.burnpermits.com or such other site as the Township may direct from time to time. Permits are valid from 01 January to 31 December and must be renewed annually.
- 3.4 The Permit shall not be considered activated until the Person granted the Permit has called the permit hotline at 613-704-1812 or such other telephone number prior to setting and maintaining any open-air burning that the Township may designate from time to time.
 - 3.4.1 The Permit for open-air burning must be activated each time a fire is set or maintained by calling the permit hotline. Activation is immediate.
 - 3.4.2 Activating the Permit shall not be required for burning under the definitions of Campfires, Outdoor Appliances, or Outdoor Fireplaces.
- 3.5 No Permit shall be required for domestic barbecues, or any other device equipped with a mechanical shutoff.
- 3.6 No Permit shall be required for a fire set and maintained in an appliance (eg. Patio heater, bbq) that conforms with the Technical Standards and Safety Act, 2000, S.O. 2000, Chapter 16, as amended, and that is for outdoor use and is installed in accordance with the manufacturer's instructions.
- 3.7 It is the responsibility of the Person granted a Permit to check and monitor burning conditions and to ensure that any open-air burning conducted is compliant with the requirements within this By-Law.
- 3.8 In any prosecution under a provision of this By-Law that requires a Permit, the onus is on the Person charged to prove that the Person had a Permit at the time the offense is alleged to have been committed.

4. CONDITIONAL PERMITS

- 4.1 A Conditional Permit for areas identified as within Fire Zone 1 may be obtained by request, and upon inspection and approval of the Fire Chief and is subject to meeting all conditions for open-air burning in Fire Zone 1. Conditional Permits require an annual site inspection and approval.
- 4.2 Conditional permits shall adhere to the terms and conditions laid out in the definition of Fire Zone 1, and only be permitted for use of Outdoor Appliances and Outdoor Fireplaces.

4.3 Notwithstanding section 4.2., existing appliances/incinerators/campfires that were previously approved before July 1, 2021, shall be permitted to remain until such time that they are in disrepair, require replacement, the Person that holds the Permit no longer resides at the address, or the Fire Chief determines that the continued use cannot safely be thought to be able to avoid undue risk to property or Person as it relates to the potential for fire spread.

5. LEVELS OF FIRE BAN

5.1 A Fire Ban is a measure whereby open-air burning is restricted due to environmental and/or other factors and may consist of:

5.1.1 "Partial Burn Ban" which restricts open-air burning but does not include Campfires, Outdoor Appliance fires, or Outdoor Fireplace fires.

5.1.2 "Total Burn Ban" which restricts all open-air burning including Campfires, Outdoor Appliance fires, and Outdoor Fireplace fires, but does not include the use of appliances that are equipped with a mechanical shut-off mechanism.

5.2 The Fire Chief may, at any time, and in the exercise of their sole discretion, issue a Fire Ban, effective for a specified period, prohibiting open-air burning within any area of the Township.

5.3 Where there is a Fire Ban in place, the Fire Chief, in their sole discretion, may upgrade, downgrade, or lift a Fire Ban in whole or in part.

5.4 When the Fire Chief orders a Fire Ban be put in place, a notification will be sent to Permit holders electronically or by such other means as the Township may determine from time to time.

5.5 The Governments of Ontario and Canada are not subject to the provisions of this by-law. Accordingly, provincial and federally owned parks and properties are not subject to Fire Bans and are at the discretion of responsible park or property authority.

5.6 Fire Ban status and the need for a Fire Ban, will be assessed daily by the Fire Chief using Ministry of Natural Resources (MNR) indices from two of the closest MNR facilities.

5.7 This By-Law shall not apply in respect of open-air burning conducted by the Township for the purposes of training, fire safety education, or research. Professional fire prevention trainers shall be exempt from the provisions of this By-Law with respect to open-air burning set or maintained for the purposes of fire safety training.

6. CAMPGROUND PERMIT

- 6.1 No Person shall set or maintain an open-air burn in a Campground, or cause or permit an open-air burn to be set or maintained unless all the following conditions are met:
 - 6.1.1 Necessary means are immediately available at the Campground to permit an open-air burn to be extinguished, and/or to limit the spread of fire, and if necessary, to summon the Fire Department; and
 - 6.1.2 There is a Person present, and in control of the open-air burn at all times.
- 6.2 Notwithstanding section 6.1, the Fire Chief may, in their sole discretion, require additional terms and conditions to a Campground Permit in addition to those set out in this By-Law.
- 6.3 The Person issued the Campground Permit (owner or designated Person), shall be responsible for ensuring compliance with this By-Law and the terms and conditions of an issued Campground Permit.
- 6.4 When there is a Total Fire Ban, the Fire Chief, upon request of the Campground Permit holder, may, in their absolute discretion, authorize open-air burning during the Total Fire Ban. The Fire Chief may require specific terms and conditions be met as a condition to authorizing such open-air burning.

7. ADMINISTRATION AND ENFORCEMENT

- 7.1 This By-Law shall be administered and enforced by the Fire Department.
- 7.2 Notwithstanding Part 2 of this By-Law, the Fire Chief may revoke any or all Permits, or refuse to issue Permits where, in the opinion of the Fire Chief, the ability to control the fire is hampered by the existence of a Dangerous Condition, Adverse Effects, or unavoidable Nuisance Conditions, which exists on or in the proximity of the proposed open-air burning site.
- 7.3 Any cost and expenses of any action by the Municipality with respect to controlling or extinguishing a fire that is caused by, or results from, the conduct of a Person acting contrary to this by-law, or is caused by or results from a person disobeying or refusing or neglecting to carry out any of the provisions of this by-law, will be assessed in accordance with the Municipality's current General Rates and Fees for Various Services Provided By-law and are payable by that Person to the Municipality on the date specified in the request for payment and if not paid on the date specified, such costs and expenses together with costs of collection, including legal fees and disbursements, are recoverable as a debt due to the Municipality by any remedy or procedure available to the Municipality by law and may be recovered in a like manner as taxes.
- 7.4 If the Fire Department responds to an Unfounded Complaint of a contravention of this By-Law, the Person whom the Unfounded Complaint originated may be responsible for all costs and expenses incurred by the Municipality in responding to such Unfounded Complaint.

8. OFFENCES

8.1 In addition to any other penalty prescribed by this By-Law, any Person who contravenes any provision of this By-Law is guilty of an offence and is liable to a fine or penalty for each offence established pursuant to Provincial Offences Act and included within Schedule "B" forming part of this By-Law.

9. INTERPRETATION

9.1 Schedule's "A" and "B" attached to this By-Law shall also be read with and form part of this By-Law.

9.2 Schedule's "A" and "B" to this By-Law may be updated by Resolution of Council when deemed necessary to do so.

9.3 In this By-Law, a word interpreted in the singular number has a corresponding meaning when used in the plural.

9.4 It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal, or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

9.5 This By-Law may be cited as the Open-Air Burning By-Law.

10. COMMENCEMENT

10.1 This By-Law shall come into force and effect on the 1st of February, 2022.

10.2 By-Law # 20-047 is hereby repealed.

10.3 That any other By-Laws, resolutions, or actions of the Council of the Corporation of the Township of Leeds and the Thousand Islands that are inconsistent with the provisions of this By-Law are hereby rescinded.

READ A FIRST AND SECOND TIME THIS (DATE).

READ A THIRD TIME AND FINALLY PASSED THIS (DATE).

SCHEDULE "A" to By-Law 22-006

COST OF FIRE DEPARTMENT SERVICES

The expenses for which the Person may be liable cover the cost of sufficient Personnel and equipment required to control a fire, as referred to within Part 7 of this By-Law; and such costs have been deemed as being:

- The costs based on the Ministry of Transportation rate in effect at the time the Open-Air Burning occurred.
- These costs shall be calculated from the initial dispatch of the Fire Department, until such time as each vehicle is back in service (defined as when the apparatus is back at the hall and has been replenished with the requirements for the unit to respond to the next activation).
- Fees associated with rentals, operators, labour costs for 3rd party equipment deemed necessary in containing and extinguishing a fire.

These fees are in addition to any fines or penalties established elsewhere, in accordance with this By-Law.

Costs shall be invoiced by the Municipality and will be due the date written on the invoice.

SCHEDULE "B" to By-Law 22-006

ITEM	DESCRIPTION OF OFFENCE	PROVISION CREATING OR DEFINING OFFENCE	SET FINE INCLUDING COSTS
1	Burn material(s) without a valid Permit for open-air burning.	Section 2.2	\$200.00
2	Burn prohibited material(s)	Subsection 2.3.2	\$200.00
3	Burn material(s) in a Municipal Park	Subsection 2.3.3	\$125.00
4	Fail to supervise a fire.	Subsection 2.3.5	\$200.00
5	Fail to adhere to terms and conditions defined for sizes/types/locations of open-air burning.	Section(s) 2.8 through 2.11	\$125.00
6	Set and/or maintain more than one open-air burn at the same time.	Section 2.12	\$200.00
7	Intentionally filed an Unfounded Complaint	Section 2.13	\$125.00
8	Set, maintain, or permit an open-air burn, or set off fireworks, or sky lanterns when a Fire Ban is in place.	Section 2.15; Subsection 2.3.7	\$500.00