

DATE: June 21, 2021
REPORT NO: WLFD-10-2021
SUBJECT: **Open-Air Fires**
CONTACT: Dennis Fisher, Fire Chief

OVERVIEW:

- To provide members of Council with the necessary information to approve the recommended Bylaw on Open-Air Fires in the Township of West Lincoln.

RECOMMENDATION:

1. That, report WLFD-10-2021 regarding “Open-Air Fires By-law” dated June 21, 2021, be received for information, and,
2. That Council adopt a Bylaw to regulate the setting of Open-Air Fires in the Township of West Lincoln; and,
3. That, the Mayor and Clerk be and are hereby authorized to sign an agreement with Fractal SAAS Inc. (FirePermits.Online) to provide online fire permit services; the cost of which is to be offset by the collection of fire permit fees and any penalty revenues that are received.

ALIGNMENT TO STRATEGIC PLAN:

Theme # 5

- Community Health & Safety – Fostering a safe community where residents can thrive throughout their lives

BACKGROUND:

West Lincoln Fire Services have allowed open-air fires throughout the Municipality dating back to the early 1970s and still allows open-air fires today.

CURRENT SITUATION:

West Lincoln residents wishing to have a controlled open-air fire on their property must call the Township office for approval. Once approved, the address and time of burning is sent to St. Catharines Dispatch where it is logged. In the event a burning complaint comes through to West Lincoln Fire to respond, the responding unit could ask dispatch if there was a controlled open-air fire permit at this particular address.

Many municipalities permit open-air fires with strict conditions to address concerns of fire safety, health and safety of residents and protection of the environment. With the

ever-increasing availability of chimeneas and other portable fire pit devices, it is evident that there is confusion regarding the legalities associated with setting open-air fires. Further to this, the use of an approved appliance such as a barbecue relative to regulation and manufacturers' instructions/installation of being too close to combustibles and transportation/storage of propane has been of concern and captured in open-air fire By-laws.

The Ontario Fire Code (OFC) supersedes any municipal By-laws regarding matters that are addressed in the Code. As such, any By-law that permits open-air fires could be in conflict with the Code and, therefore, have no force in law. Specifically with respect to open-air fires, Article 2.4.4.4. of the OFC states, "Open-air burning shall not take place unless approved, or unless such open-air burning consists of a small, confined fire that is, supervised at all times, used to cook food on a grill or a barbecue or a spit and commensurate with the type of and quantity of food being cooked". On this basis, "approved" means the Chief Fire Official has authority and responsibility for approving open-air burning, unless it is for cooking in accordance with the Fire Code.

Farming operations are exempt under OFC Article 1.1.6.1. Despite this, in the opinion of the Fire Marshal, if the farm property also contains a dwelling, the OFC is applicable for fire safety matters in proximity to the dwelling. The term "proximity" is interpretive and as such, the literal application of the Code is highly subjective and may be viewed differently by the property owner and the Chief Fire Official. Section 2.4.4.4(2) of the OFC applies to appliances such as a barbecue, grill or spit for the purposes of cooking.

Section 7.1 (1) of the Fire Protection and Prevention Act, states "that a Council of a municipality may pass By-laws regulating fire prevention, including the prevention of the spreading of fires, and regulating the setting of open-air fires, including establishing the times during which open-air fires may be set and may deal with different areas of the municipality differently. The recommended By-law will be used to define conditions of approval that include location, fire size, fuel source, times of day, weather conditions, and so on. The recommended By-law will also be used as the mechanism for regulating open-air fires on properties exempt from the OFC (e.g.: farms), and serve to establish parameters for proximity to structures on these properties. Such a By-law would not be deemed in conflict with provincial legislation on the basis that these provisions are outside the scope of the OFC. Although a By-law may serve to "define" the conditions for approval, the authority/responsibility for approval would remain solely with the Chief Fire Official.

If approved by Council, the recommendation will permit open-air fires in all areas of the Municipality, with conditions that will always ensure fire safety, health and safety of our residents, and the environment.

Open-air fire By-laws will never be acceptable to everyone; however, the fire department will always respond to open-air fire complaints or incidents. We have the opportunity to find a balance with the recommended By-law and control open-air fires through a permit process. Those applying for a permit will have a set of conditions to

adhere to which will greatly assist West Lincoln Fire Services. When you go outside those conditions, there will be a penalty to pay.

The online permit process will eliminate a large number of phone calls that staff receive during working hours (mainly Fridays) which will be a more efficient and effective use of time management.

If approved, public education outreach will be critical to ensure residents understand the conditions when applying for a permit and penalties if they do not follow the conditions of the By-law. The website will clearly identify both the conditions and penalties and other pertinent information.

FINANCIAL IMPLICATIONS:

Staff will be working with FirePermits.Online so residents can apply for open-air fire permits online and payments will also be made online. The cost for this service from FirePermits.Online is \$199.00 per month plus 10% of the permit fee. The potential financial impact includes Township staff processing financial transactions and permit applications that are not processed online. There will be availability to offset these costs for the fire service with fire permit application fees and any penalties that may be issued to residents for non-compliance etc.

For the residents, as we continue to adapt our business at the Township, we are encouraging residents to use the on-line permit process to create efficiencies and for the effectiveness of both the end user and Township staff.

INTER-DEPARTMENTAL COMMENTS:

Discussions with Director of Finance/Treasurer and CAO.

CONCLUSION:

The recent pandemic has residents staying home more frequently and wanting to have a backyard campfire. Open-air fires should collectively consider air management, fire prevention and safety issues. The recommended By-law captures all of those fundamental principles. The recommended By-law provides a means of capturing Council's Strategic Priority of Accountability and Transparency throughout the community, by identifying and implementing improved approaches and balancing the needs of residents all West Lincoln residents.

Staff recommends the approval of the new Open-air Fire By-law.

Prepared & Submitted by:



Dennis Fisher, Fire Chief

Approved by:



Bev Hendry, CAO