



BYLAW No. 2011-12

OPEN AIR BURNING REGULATION

Covering The Municipality of Dutton/Dunwich and The Dutton/Dunwich Fire Department

WHEREAS section 210, paragraph 35 of the Municipal Act provides that Council may prescribe for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting such open air fires;

AND WHEREAS section 210, paragraph 49 of the Municipal Act, provides that Council May make such other regulations for preventing fires and the spread of fires as is considered necessary;

AND WHEREAS section 326 of the Municipal Act authorizes where a municipal council has the authority to direct or require by by-law or otherwise that any matter or thing to be done, the council may by by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at the owners expense and the Municipality may recover the expense incurred in doing it by action or the same may be recovered in like manner as Municipal Taxes or council may provide that the expense incurred by it, with interest, shall be payable by such person in annual installments not exceeding ten years.

AND WHEREAS section 220.1 of the Municipal Act authorizes a municipality to pass a by-law imposing a fee or charge on any class of persons for services or activities provided or done by or on the behalf of it;

AND WHEREAS section 2.6.3.4 of the Fire Protection and Prevention Act provides for the prohibition of open burning unless approved or unless such open air burning consist of the use of barbecue to cook food, provided such devices contain a small contained fire which is supervised at all times.

THEREFORE the Municipal Council of the Municipality of Dutton/Dunwich enacts as Follows:

PART 1

DEFINITIONS AND ADMINISTRATION

DEFINITIONS

For the purposes of this Regulation:

APPLICANT – Shall mean the person, organization, company or group that makes application to the Fire Chief or By-law/Provincial Offences Officer for permission to hold an open air burning and includes such persons who contact the Fire Chief or By-law /Provincial Offences Officer with notification of an intention to hold an open burning of brush in the rural area.

BARBECUE – Appliances include a Hibachi, a permanent structure designed and intended solely for the cooking of food in the open air, but does not include devices predominately designed for personal warmth, fire pits or camp fires.

OPEN AIR BURNING – Shall mean the burning of any material, including without limiting the generality of the foregoing, wood, cardboard, brush or garden waste the flame is wholly contained and is, thereby open to the air.

OPEN BURNING DEVICE - Shall mean any commercially manufactured device for the purpose of containing a recreational fire.

MUNICIPALITY – Shall mean the Municipality of Dutton/Dunwich

FIRE CHIEF – shall mean the Fire Chief for the Dutton/Dunwich Fire Department and members of the Fire Department operating under the direction of the Fire chief.

FIRE DEPARTMENT – Shall mean the Dutton/Dunwich Fire Department

POLICE – shall mean the Ontario Provincial Police (OPP)

BY-LAW / PROVINCIAL OFFENCES OFFICER – Shall mean anyone appointed by the Municipality of Dutton/Dunwich to do these duties.

ADULT – any person over the age of 16 years of age

ADMINISTRATION

The Fire Chief and the Department and the By-law / Provincial Offences Officer shall administrate this regulation

FIRE DEPARTMENT – EXEMPT

The Dutton/Dunwich Fire Department shall be exempt from this regulation for the provisions of education and training purposes.

PART 2

GENERAL PROVISIONS

2.1 OPEN AIR BURNING – REGULATIONS

No person shall conduct, or permit to be conducted, an open air burn within the boundaries or the Municipality of Dutton/Dunwich unless the Fire Chief or By-law Officer has given permission hereunder.

2.2 EXCEPTION – RECREATIONAL BURNING / SAFETY AND REGULATION

a) Despite Section 2.1 above permission is not required from the Fire Chief and or By-law Officer for open air burnings associated with the use of open burning devices or pits specifically designed for open air burnings, provided that each of the following regulations are complied with open air burning may only be conducted between the hours of 9:00 a.m. and midnight. No person shall set or maintain an open air burn in a device or pit between midnight and 9:00 a.m.

b) No person shall set/maintain an open burn unless confined to open burning devices or to a pit no larger than 2 feet (61cm) by 2 feet (61cm) in size. When in use, the open burning devices or pit shall be covered with heavy gage metal screen have mesh size no larger than ½ inch (13cm) and which is positioned in such a manner as to preclude the escape of combustible material including ash.

- c) No person shall set/maintain an open burn unless no more than 8 inches (21 cm) of the containment area shall be above grade with a total maximum depth of 16 inches (42 cm).
- d) No person shall set/maintain an open burn with materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood, not including pressure treated wood or creosote treated wood maybe burned.
- e) No person shall set/maintain an open burn unless the dimensions of the wood being burnt are not greater than the size of the device or fire pit and shall be totally confined within the device and or pit at all times.
- f) No person shall set/maintain an open burn unless confined to a location that provides for the minimum distance of 9 feet (3 M) in all directions from adjacent properties.
- g) No person shall set/maintain an open air burning unless confined to an area that is a minimum of 24 feet (8 M) from any combustible structure or objects.
- h) No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on or in any public street, alley, road or other public ground.
- i) No person shall kindle or maintain a fire upon the land of another without the permission of the owner or agent and or Fire Chief or By-law Officer.
- j) No person shall throw down or drop any lighted match, cigar, cigarette or other burning substance in any combustible material or in close proximity thereto.
- k) No person shall set/maintain an open air burning unless an effective extinguishing agent of sufficient size and with the capacity of extinguishing the fire is immediately available for use.
- l) No person shall set/maintain an open air burning unless attended, controlled and supervised by an adult (someone over the age of 16yrs of age) at all times and shall ensure the fire is completely extinguished before clearing the area.
- m) No person shall set/maintain an open air burning when the wind exceeds 30 kilometers per hour or during rainy or foggy weather or at times when a smog alert has been declared by the Ministry of Environment For Ontario (Provincial) & or Canada (Federal).
- n) No person shall set/maintain an open air burning unless steps are taken to ensure adjacent properties and persons are protected from fire and smoke hazards. Should such a complaint be received by the Township Fire Dept, Ontario Provincial Police and or the By-law/Provincial Offences Officer regarding public safety and welfare from fire and smoke hazards or health concerns, the Fire Dept, OPP and or By-law Officer will have the discretion to determine the compliance and his / her decision will be final.

2.3 EXCEPTIONS

BARBECUES

No person shall light a barbecue unless:

- a) the barbecue is placed on non-flammable material, is supervised at all times and such devices comply with regulations of size found in 2.2
- b) the fuel is a commercially produced charcoal or briquette or a flammable product commercially produced for the purpose of cooking such as natural gas or propane.

2.4 PERMIT - SPECIAL EVENTS

- a) Any person and or group may obtain a special permit for a function or event by contacting the Fire Chief of Dutton/Dunwich Fire or a delegate of the Fire Dept, Municipality and or By-law officer.
- b) An application will be required to be filled out and information provided to the Fire dept referencing the event and the purpose of the open burning. Time frame of at least one week before the event in question.
- c) Prior to granting a permit the Fire Chief will go over the location of the open burn event and make consideration as to health and safety matters.
- d) The Fire Chief can refuse the permit if he feels that the open burn does not meet regulation and or is in the interest of public safety
- e) The Fire Chief will not give permission to burn any non combustible materials as outlined in this regulation ,section 2.2d
- f) The Fire Chief may attach any such conditions as deemed appropriate to any permit granted for an open air burn.
- g) There will be a fee of \$25.00(per event) to receive a special events permit payable to the Municipality of Dutton/Dunwich
- h) The applicant or person who receives the special permit could be held liable for any cost incurred by the Municipality due to emergencies related to the Open Burning. Or cost incurred if the applicant refuses to extinguish the fire, to lengthen the time and or size of the fire upon notice from the Fire Chief or Fire Dept.
- i) The Fire Chief may withdraw the permit and or stop the open burn if ,in Fire Chief's opinion the fire presents a fire hazard, smoke hazard or the weather has deteriorated and has become unfavourable for an open air burn.
- j) Upon withdraw of permission/permit from the Fire Chief the applicant shall extinguish the fire.

2.5 ORDER TO EXTINGUISH UNAPPROVED FIRES

- a) When made aware of prohibited open burning not authorized under this regulation, the Fire Chief, OPP and By-law Officer shall order the land owner or occupant to immediately extinguish the fire.
- b) The land owner or occupant of the land on which a prohibited open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Dept, OPP and or By-law Officer.
- c) Should the land owner or occupant of the land fail to extinguish the fire when ordered to do so by the Fire Dept, OPP and or By-law Officer the Fire Dept, OPP and or By-law Officer may take action to have the fire extinguished. The person who owns the land or occupant of the land can be held liable for any costs incurred to extinguish the fire by the Dutton/Dunwich Fire Department.
- d) Failure of the owner and or occupier of land to obey any such orders as directed by the Fire Chief, Fire Dept., OPP and or the By-law Officer can result in a fine under the Provincial Offences Act.

PART 3

SPECIAL REGULATIONS FOR RURAL AREAS AND DEVELOPMENT

3.1 PERMISSION - BRUSH BURNING - TELEPHONE

No person shall conduct or permit to be conducted an open air burning in the rural areas which is not authorized under section 2.2, 2.3, or 2.4 without notifying the Municipality, Dutton/Dunwich Fire Department, or By-law Officer and obtaining a permit in person or by telephone and complying with the provisions of section 3.3.

3.2 NOTIFICATION AT CONCLUSION OF BURNING – RURAL AREA

All persons who have given notification pursuant to section 3.1 above shall notify the Dutton/Dunwich Fire Department in person or by telephone at the conclusion of the burning.

3.3 REGULATIONS RE-OPE AIR BURNING – RURAL AREA

The following regulations shall apply with respect to open air burnings in the rural areas of the Municipality of Dutton/Dunwich. Every person shall comply with the following regulations:

- a) Open air burnings may only be conducted between the hours of 8:00am and 7:00pm.
- b) No material other than dry brush may be burned.
- c) Open air burnings shall be attended, controlled and supervised by an adult at all times and shall be completely extinguished before the burn site is vacated.
- d) Open air burnings are not permitted during rainy, foggy weather or on smog alert days as declared by the Ministry of Environment of Ontario or Canada.
- e) An open air burning shall be confined to an area which is at least 150 feet (45 M) from any building, highway, road or wooded area.
- f) Steps must be taken to ensure that smoke caused by an open burn does not have a negative impact on the visibility of motorists using the roads in the vicinity of the burn.
- g) Steps must be taken to ensure that neighbours and/or adjoining properties are not affected by smoke hazards as relating to health conditions of a person or persons in the vicinity of the burn.

3.4 NOTIFICATION TO EXTINGUISH

All persons conducting an open air burning in the rural area shall immediately extinguish the fire when ordered to do so by the Fire Chief, OPP Officer, and/or By-law Officer if in their opinion said fire presents a fire hazard. The fire is having a negative impact on persons using the road or Highway adjacent to the burn or these regulations are being contravened.

3.5 FAILURE TO EXTINGUISH – LIABLE FOR COSTS

Should any land owner or occupier fail to extinguish a prohibited open air burning in a rural area when ordered to do so by the Fire Chief, OPP Officer and/or By-law Officer, the person who owns or occupies the land on which the open burning is located shall be responsible for any and all costs incurred by the Municipality of Dutton/Dunwich and Dutton/Dunwich Fire Department in its efforts to extinguish the fire.

PART 4

ENFORCEMENT

4.1 REGULATIONS – OFFENCE

No person shall fail to comply with the requirements as set out in this regulation and any person who contravenes this regulation is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offences Act.

4.2 CONTINUATION – REPETITION – PROHIBITED BY ORDER

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

4.3 DEFAULT – COLLECTION OF COSTS

The Municipality of Dutton/Dunwich has the right to collect any unpaid costs as authorized by this regulation by adding such charges to the tax roll where they may be collected in like manner as municipal taxes, all in accordance with section 326 of the Municipal Act.

4.4 ENFORCEMENT OFFICERS AND POWERS

The Municipality of Dutton/Dunwich for the purposes of enforcement of this by-law has appointed the following persons to do enforcement.

- Fire Chief of Dutton/Dunwich Fire Department
- Fire Department Appointees of the Dutton/Dunwich Fire Department
- Officers of the Ontario Provincial Police
- By-law/Provincial Offences Officers appointed by the Municipality of Dutton/Dunwich
- Any person appointed by the Municipality of Dutton/Dunwich to enforce this regulation

4.5 INVESTIGATION

Anyone who is appointed for the purposes of enforcement can enter onto private property to determine if a violation of regulation is taking place and or to inspect to ensure a prohibited fire is not burning.

PART 5

ENACTMENT

5.1 HEADINGS

The headings in the body of this regulation form no part of the regulation but are inserted for convenience of reference.

5.2 SEVERABILITY

If any section or sections of this regulation or parts thereof are found by any court to be illegal or beyond the power of council to enact, such sections or parts thereof shall be deemed to be severable and all other sections or parts of this regulation shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found and this regulation shall be enacted as such.

5.3 SHORT TITLE

The short Title of this regulation is "OPEN BURNING REGULATION"; a schedule with set fines and Offences is attached as Appendix A

5.4 EFFECTIVE DATE

This regulation comes into force on the day it is passed by Municipal Council.

5.5 FINES

Short word titles for offences can be found in Schedule A

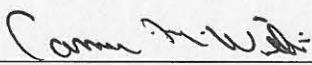
FORM III AND COURT DATE ON THIRD OCCASION AND FINE UP TO AND NOT TO EXCEED \$10,000.00

5.6 PERMITS

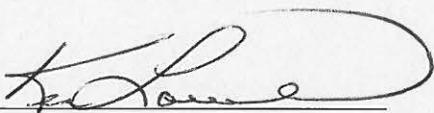
SPECIAL EVENTS PERMIT \$25.00 PLUS APPLICATION WITH CONTACT INFORMATION.

Please see attached schedule B

READ a first and second time this 23rd day of February, 2011.

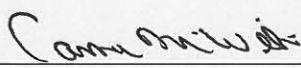


Mayor

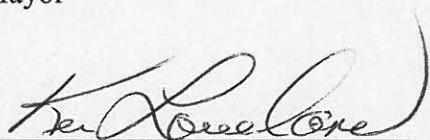


Clerk

READ a third time and finally passed this 27th day of April, 2011.



Mayor



Clerk

Set fine Schedule "A"

Municipality of Dutton-Dunwich

PART I Provincial Offences Act

By-law 2011-12

OPEN BURNING REGULATION

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1	Burning after Midnight to 9:00 a.m.	2.2a	\$350.00
2	Improper Device or Pit	2.2b	\$350.00
3	Fire Larger than Regulation	2.2c	\$350.00
4	Burning of Non Regulation Materials	2.2.d	\$350.00
5	Burning Material Larger than Device	2.2e	\$350.00
6	Burning too Close to Adjacent Property	2.2f	\$350.00
7	Burning too Close to Structure or Objects	2.2g	\$350.00
8	Burning in Unauthorized Area	2.2h	\$350.00
9	Having Fire Without Permission	2.2i	\$350.00
10	Discarding of a Fire	2.2j	\$350.00
11	Extinguishing Agent or Device Not Available	2.2k	\$350.00
12	Open Burning Not Attended	2.2l	\$350.00
13	Open Burning in Violation of Environment Ministry Warning or Weather	2.2m	\$350.00
14	Fail to Protect Properties/Persons from Fire and Smoke Hazards.	2.2n	\$350.00

- NOTE: The general penalty provision for the offences listed above is Section 4.1 of By-law 2011-12, a certified copy of which has been filed.