

**The Corporation of
The Township of Smith-Ennismore-Lakefield**

By-law No. 2010 -054

**Being a By-law to Regulate the Setting of Fires in the Open Air in
The Township Of Smith-Ennismore-Lakefield**

Whereas the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, provides:

- in subsection 7.1(1)(a) that a council of a municipality may pass By-laws regulating fire prevention, including the prevention of the spreading of fires;
- in subsection 7.1(1)(b) that a council of a municipality may pass By-laws regulating the setting of open air fires, including the times during which open air fires may be set;
- in subsection 7.1(3) that a By-law passed under section 7.1 may deal with different areas of the municipality differently;

And Whereas the Municipal Act, 2001, S.O. 2001 c. 25, section 128(1), as amended provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are, or could become or cause public nuisances:

And Whereas Council considers excessive smoke, smell, airborne sparks or embers to be or could become or cause public nuisances by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighbouring properties and generating false alarms;

Now Therefore the Council of The Corporation of the Township of Smith-Ennismore-Lakefield enacts as follows:

Section 1 – Definitions and Interpretations

1.1 For the purpose of the By-law:

“Barbeque” means a manufactured device or structure with a grill which is designed, intended and used solely for the purpose of cooking food outdoors, and includes a hibachi, but does not include devices or structures designed for personal warmth, fire pits, or Outdoor Fire Containers;

“Built Up Area” means an area with buildings or structures in close proximity where appropriate clearances can not be met to permit safe open air burning as determined by the Fire Chief or designate;

“Burn Barrel” means an open fire set and maintained in an open topped steel barrel;

“Campfire” means a small contained fire, which is supervised at all times and which is used to cook food or provide warmth;

“Corporation” means The Corporation of the Township of Smith-Ennismore-Lakefield;

“Fire Chief” means the person appointed by Council to act as Fire Chief for the Corporation as defined in the *Fire Protection and Prevention Act, 1997*, or his designate;

“Ground Cover” includes, but is not limited to, leaves, grasses, weeds, tree needles, or wood chips on the ground;

“Noxious Materials” includes, but is not limited to petroleum products, tires, plastics, rubber products, drywall, demolition waste, construction waste, tar, asphalt products, pressure-treated wood, creosote-treated wood and painted wood;

“Nuisance” means excessive smoke, smell, airborne sparks or embers that are likely to disturb others, or is likely to reduce visibility on the roads in the vicinity of the Open Air Burning;

“Officer” means the Fire Chief, Fire Prevention Officer, or designate of the Smith-Ennismore-Lakefield Fire Department;

“Open Air Burning” means a fire set outside of a building or structure;

“Outdoor Fire Container” means a non-combustible container used to hold a small fire, and includes, but is not limited to, chimineas and outdoor brick fireplaces, fire pits, but does not include a burn barrel;

“Owner” means the registered owner or any person, firm, or corporation having control over, or possession of any portion of the building or property under consideration and includes the persons in the building or property;

“Permit” means a Permit issued by the Fire Chief or his designate to set a fire in the Open Air for a specified time period;

“Person” includes an individual, business, a partnership, or a corporation;

“Smog Alert” means an alert issued by the Ministry of the Environment with respect to air quality.

- 1.2 In this By-law, a word interpreted in the singular number has the corresponding meaning when used in the plural and gender will be read according to the relevant context.

1.3 This By-law includes Schedule A annexed hereto and hereby declared to form part of this By-law.

Section 2 – Exemptions

2.2 This By-law shall not apply to;

- a) a person using a Barbeque to cook food;
- b) a person using a fire in a device installed outside of a building that is used as a source of heat or power for the building, and provided that such device is certified for the purpose by a recognized agency;
- c) a person conducting fire extinguisher training who has obtained prior approval of the Fire Chief or designate;
- d) a Fire Department Officer for the purposes of education and training individuals, with prior approval of the Fire Chief or designate.

Section 3 – General Conditions for All Open Air Burning

- 3.1 No person shall set, maintain, or cause to be set or maintained, Open Air Burning except as authorized by this By-law.
- 3.2 No person shall set, maintain or cause to be set or maintained Open Air Burning, even if a Permit has been issued under this By-law, when a burning ban or fire ban has been issued by the Fire Chief or designate.
- 3.3 Every person who applies for and receives a Permit acknowledges having read and understood the rules specified in this By-law and assumes all responsibility and liability in connection with the open air burning Permit.
- 3.4 Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Air Burning authorized under this By-law shall comply with the following conditions:
 - a) allow, at any reasonable time, an Officer to inspect the location or proposed location of the Open Air Burning;
 - b) only burn commercially produced charcoal, briquettes, or clean, dry, seasoned wood or brush;
 - c) not burn Noxious Materials, as defined;
 - d) not burn leaves, grass clippings, compost;
 - e) have an effective extinguishing agent of sufficient size and with the capability of extinguishing the Open Air Burning immediately available for use;
 - f) ensure that the fire is attended at all times by a responsible person at least 18 years of age and shall ensure that such person attends to such fire until

the fire is completely extinguished by water, burying, or complete burn out;

- g) ensure the wind speed is not in excess of 15 km per hour during the Open Air Burning according to Environment Canada for the Peterborough area;
- h) ensure wind direction does not cause the smoke to create a discomfort to persons residing in the immediate area of the Owner who has been issued a Permit;
- i) not burn if it is foggy;
- j) not burn if a Smog Alert has been declared;
- k) protect adjacent properties from the potential spread of fire;
- l) ensure the Open Air Burning does not create a Nuisance as defined;
- m) not burn in a burn barrel;
- n) not burn in a built up area as defined which includes, but is not limited to, the village of Lakefield, the hamlet of Bridgenorth, Woodland Acres, the hamlet of Ennismore, the hamlet of Young's Point or as determined by an Officer of the Fire Department.

3.5 Permits

- a) A Permit must be obtained for Open Air Burning as set out in Section 5.
- b) An application for a Permit of Open Air Burning must be completed on the forms provided by the Fire Department and to be valid must be signed by the Fire Chief or his designate.
- c) A Permit for Open Air Fires shall only be valid for the date(s) indicated on the Permit.
- d) A Permit is not required for an Outdoor Fire Container/Campfire, provided the fire complies with Section 4 and Subsection 3.4 as set out in this By-law.
- e) A Permit will be revoked if an Officer has determined that the By-law has been contravened.
- f) The Fire Chief or designate may refuse to issue a Permit:
 - i. if the proposed Open Air Burning would contravene this By-law; or
 - ii. if the Owner or Permit holder has previously contravened any provisions of this By-law or previous By-laws.

Section 4 – Outdoor Fire Containers / Campfires

- 4.1 A person may conduct a Campfire or a fire in an Outdoor Fire Container if the person complies with all the conditions set out in this Section and in Section 3.

- 4.2 A person conducting Open Air Burning in an Outdoor Fire Container or Campfire shall:
- a) only conduct the Open Air Burning between sunrise and midnight;
 - b) only use an Outdoor Fire Container that is constructed from non-combustible material;
 - c) not burn or attempt to burn volumes of materials that exceeds the container's capacity;
 - d) contain the fire within the Outdoor Fire Container at all times;
 - e) locate the Outdoor Fire Container at least 30 metres (100 feet) from any building, structure, property line, tree, hedge, fence, roadway, overhead wire, or other combustible article;
 - f) in the case of an chiminea or outdoor brick fire place;
 - i. locate the Outdoor Fire Container on a non combustible surface that extends beyond the unit to a dimension equal to the height of the Outdoor Fire Container or;
 - ii. ensure combustible ground cover is cleared from around the unit a dimension equal to the height of the Outdoor Fire Container;
 - g) in the case of a fire pit;
 - i. ensure that the fire size does not exceed 61 centimetres (2 feet) in all directions;
 - ii. is located at least 3 metres (10 feet) from any combustible ground cover and;
 - iii. is constructed in such a manner to contain the fire.

Section 5 - Open Air Fires

- 5.1 A person may conduct Open Air Burning if the person has been issued a Permit, and if the person complies with all the conditions set out in this Section and in Section 3;
- 5.2 A person conducting Open Air Burning shall;
- a) produce the Permit on demand to an Officer conducting an inspection of the Open Air Burning;
 - b) only conduct the Open Air Burning between sunrise and sunset;
 - c) not have a fire larger than 1 metre (3 feet 3 inches) in all directions, unless otherwise agreed to by the Fire Chief or his designate;
 - d) locate the Open Air Burning at least 60 metres (200 feet) from any building, structure, property line, tree, hedge, fence, roadway, overhead wire, or other combustible article;
 - e) locate the Open Air Burning at least 7.5 metres (25 feet) from any combustible ground cover;
 - f) adhere to any additional requirements or exemptions the Fire Chief or designate considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances, or give effect to the objects of this By-law.

Section 6 - Order to Extinguish

- 6.1 If an Officer is satisfied that this By-law has been contravened, the Officer may order the Permit holder or Owner to extinguish the fire.
- 6.2 If the Permit holder or Owner refuses to extinguish the fire or the Officer feels that correct action will not or can not be taken to extinguish the fire, the Officer will extinguish the fire using resources at his disposal.

Section 7 - Severability

- 7.1 Should any section of this By-law be declared by a court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining Sections shall nevertheless remain valid and binding, and shall be read as if the offending section or Section had been struck out.

Section 8 - Penalty and Costs

- 8.1 Any person setting, maintaining or allowing to burn a fire and all Owners of property upon which a fire is set, maintained or allowed to burn in the open air shall:
 - a) be responsible for any damages to property occasioned by said fire; and
 - b) be liable for the cost of any firefighting equipment and personnel necessary to extinguish said fire, including aid from neighbouring departments, which cost will be calculated in accordance with the Ministry of Transportation fee for service as amended from time to time by the Ministry of Transportation and set-out in Schedule "A", Section (c), attached hereto, which Section shall be updated automatically, without requiring an amendment to this Bylaw, to incorporate future rate changes as adopted by the Ministry.
- 8.2 The Corporation shall, if such amounts remain unpaid sixty (60) days following notification of the amounts owing, have the right to collect any unpaid costs, including interest, as authorized by this By-law by adding such charges to the tax roll where they may be collected in a like manner as municipal taxes, all of which is in accordance with Section 398. of the Municipal Act, 2001, c. 25, as amended;
- 8.3 The Corporation shall, prior to adding any amounts owing to the tax roll of any property, provide at least ten (10) days written notice of its intention to do so.

8.3 Any person who contravenes any provision of the By-law is guilty of an offence and liable on conviction to a penalty not exceeding \$5,000, exclusive of costs, and the provisions of the Provincial Offences Act, R.S.O. 1990, c. P. 33 as amended, shall apply to said fine.

Section 9 - Miscellaneous

Repeal

9.1 Upon the passage of this By-law, By-law 2001-94, 2005 -58 and all amendments thereto shall be repealed;

Short Title

9.2 This By-law may be referred to as the *Open Air Burning By-law*.

Section 10 – Enactment

10.1 That this By-law shall come into force and effect immediately upon the final passing thereof.

Read a first, second and third time this 20th day of July, 2010

The Corporation of the Township of Smith-Ennismore-Lakefield

Reeve
Ron Millen

Clerk
Angela Chittick

c/s

Schedule “A”
Fees, Interest and Penalties

Attendance by the Fire Department or Fire Department Personnel and determining that a fire has been set, maintained, or allowed to burn in contravention of By-law No. 2010-054 as amended, the following shall apply.

Section A - Costs:

1. As per amended MTO fee for service rate per truck for the first hour or portion thereof and half the hourly fee for every half hour thereafter. Any additional cost for special supplies used including but not limited to, firefighting foam and hazardous material absorbent, portable fire extinguishers.
2. As per amended MTO fee for service rate per truck for the half hour, for a fire department officer required to attend an open air burning.

Section B – Interest and Penalties

1. All unpaid amounts owing by any person to the Township pursuant to this By-law accrue interest at the rate of 24% per annum, calculated monthly, and such amounts shall be paid and collected as set out in Section 8 of this By-law. Interest as set out herein shall be payable 30 days following issuance of an invoice by the Township for the fees owing pursuant to this By-law.

Section C – Current Ministry of Transportation Rates

1. As of date of passage - \$350 per hour (\$175 per half-hour)
2. As of October 1, 2010 - \$410 per hour (\$205 per half-hour)



Smith-Ennismore-Lakefield Fire Department
833 Ward Street, P.O. Box 270
Bridgenorth, ON
K0L 1H0
Phone: (705) 292-7282 Fax: (705) 292-8634
Website: www.smithennismorelakefield.on.ca

Open Air Fire Application

Date: _____ Time: _____

By-law 2010-054 Rec'd: ___Yes ___No

Permit No.: _____

The following FIRE PERMIT has been issued to:

Name: _____

911 Address: _____

Home Phone: _____ Cell Phone: _____

Issued Date: _____ Person Responsible if different from Owner

Effective Date: _____ 1. _____

Expiration Date: _____ Phone: _____

This permit is issued subject to the following conditions;

1. The Applicant/Person responsible acknowledges having read and understood Bylaw #2010-054.
2. The Applicant/Person responsible must obtain verbal permission from the Fire Chief, The Fire Prevention Officer, or designate on the date the fire is set.
3. The Applicant/Person responsible shall post this Fire Permit at the location of the telephone nearest the fire for easy access in case of emergency.
4. Permits may be renewed by obtaining verbal confirmation from the Fire Chief, Gord Jopling, the Fire Prevention, Mike Cavanagh or designate at (705) 292-7282.
5. A Permit will be revoked if an Officer has determined that the By-law has been contravened.

Please contact the Fire Department if you have questions regarding open air burning.

Applicant's Signature

Issuer's Signature:

"READ RULES AND REGULATIONS BEFORE BURNING"