

# **CORPORATION OF THE TOWN OF TILLSONBURG**

## **By-law Number 3072**

### **A By-Law to provide for THE REGULATION OF OPEN AIR BURNING IN THE TOWN OF TILLSONBURG**

WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, 1997, S.O., provides 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;

AND WHEREAS Section 2.6.3.4 of the *Ontario Fire Code* provides for the prohibition of open air burning unless approved or unless such open air burning consists of the use of a barbecue to cook food, provided such devices contain a small contained fire which is supervised at all times.

THEREFORE the Municipal Council of The Corporation of the Town of Tillsonburg enacts as follows:

### **SHORT TITLE OPEN AIR BURNING REGULATIONS BY-LAW**

#### **Part 1**

##### **1.1 Definitions**

###### **Adjacent – defined**

“adjacent” shall mean a property that shares a common boundary with another property, a property that is nearby or in proximity to another property, or a property in a general neighbourhood or area which is affected by the products of combustion resulting from recreational burning or special event burning permit, discretionary to the Fire Chief’s opinion.

###### **Barbeque - defined**

“barbeque” shall mean a portable or fixed device including a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended solely for the cooking of food in the open air, but does not include devices designed for personal warmth, fire pits or camp fires.

###### **Fire Chief - defined**

“Fire Chief” shall mean the Fire Chief for the Town of Tillsonburg Fire Department and members of the Town of Tillsonburg Fire Department acting under the Fire Chief’s direction.

###### **Permit holder - defined**

“permit holder” shall mean the person, organization, company or group that has been granted by the Fire Chief a permit under section 2.6 for a special event to hold an open air burning or has been granted a permit under section 2.5 for recreational burning, based on the results of an onsite inspection that allows for open burning on residential properties that do not meet the regulations of this policy.

##### **1.2 Administration**

This by-law shall be administered by the Fire Chief.

### **1.3 Fire Services - Exempt**

The Town of Tillsonburg Fire Department shall be exempt from the provisions of this policy with respect to open-air burnings set for the purposes of educating and training individuals.

## **Part 2**

### **GENERAL PROVISIONS**

#### **2.1 Open air burning - Regulations**

No person shall conduct an open air burning within the boundaries of the Town of Tillsonburg unless permission has been given by the Fire Chief. No person shall set a fire that is not contained.

#### **2.2 Permission - Recreational Burning**

With respect to Section 2.1 above, permission is granted by the Fire Chief for open air burnings that are contained within non-combustible containers or pits specifically designed for open-air burnings.

The following regulations shall apply with respect to open-air burnings for recreational purposes:

- (a) Open-air burnings may be conducted between the hours of 4 PM and Midnight only.
- (b) No materials other than commercially produced charcoal briquette or clean, dry seasoned wood may be burned.
- (c) Open burnings shall be confined to non-combustible containers or to a pit no larger than two (2) feet (61 centimetres) by two (2) feet (61 centimetres) in size.
- (d) When in use the open burning device or pit shall be covered with a heavy gauge metal screen having mesh openings no larger than one half (.5) inch (13 millimetres) which shall be placed in such a manner as to preclude the escape from the fire of combustible solids such as sparks and ash.
- (e) The dimensions of the fuel being burnt shall not be greater than the size of the container or fire pit to a maximum of one (1) cubic foot (.03 cubic metres) and shall be totally confined within the container or pit at all times.
- (f) An open air burning shall be confined to a location that provides for a minimum distance of five (5) meters (16.4 feet) in all directions from adjacent properties.
- (g) Open-air burnings shall be confined to an area that is a minimum of three (3) metres (9.84 feet) from combustible structures or objects.
- (h) An effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use.
- (i) Open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the open-air burn site is vacated.
- (j) Open-air burnings are not permitted when the wind speed exceeds 15 kilometres per hour or during rainy or foggy weather or at times when a smog alert has been declared. The appropriate Federal and/or Provincial Government agency shall be used as the source for this information.
- (k) The owner, occupant or permit holder must take steps to ensure that adjacent properties are protected and that the byproducts of open-air burnings do not have a negative impact on persons, pets or the environment.

#### **2.3 Exception - barbeques**

Despite Section 2.1 above, permission is not required from the Fire Chief for the use of a barbeque to cook food. Barbeques being used to cook food shall be attended, controlled and supervised at all times.

#### **2.4 Barbeques - approved fuels**

The only approved fuels for use in barbeques are commercially produced charcoal, briquette or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

#### **2.5 Permit - approval - non-compliance recreational burning**

An owner or occupant may make application to the Fire Chief for a variance with respect to 2.2(c), 2.2(f) or 2.2(g). Based on the results of an on-site inspection, the Fire Chief may issue a permit for recreational burning to allow for open burning on residential properties that do not meet the regulations as stated in 2.2(c), 2.2(f) or 2.2(g) of this policy. Should the circumstances, under which the approval was given, change the permit will no longer be valid.

The Fire Chief may attach such conditions as deemed appropriate to any permit granted for such open air burning.

#### **2.6 Permit - special events**

All persons seeking permission to hold a special event involving an open air burning that is not a recreational burning as per section 2.2 and does not employ the use of a barbeque shall apply to the Fire Chief for a permit to have an open fire at such event. Application shall be made at least one week prior to the proposed date of the event on a form supplied by the Fire Chief and be accompanied by the applicable fee as set out in Schedule "A" to this by-law. The Fire Chief may issue a permit to allow a special event to reoccur over an extended period of time. The Fire Chief may issue a permit for a special event to allow for open air burning from 10AM to Midnight. Registered not-for-profit charitable organizations may make application to the Fire Chief requesting a permit fee exemption and the Fire Chief may authorize an exemption.

#### **2.7 Permit - considerations**

Prior to granting a permit to hold an open air burning for a special event, the Fire Chief will give consideration to the location of the proposed event, the size of the proposed fire, the safety measures proposed, the supervision arrangements proposed, the time of year, the time of day and the anticipated weather conditions.

#### **2.8 Permit- conditions of Fire Chief**

The Fire Chief may attach such conditions as deemed appropriate to any permit granted for an open air burning at a special event.

#### **2.9 Permit - refusal for residential land**

The Fire Chief shall not grant a permit to hold open-air burnings at special events that are proposed to take place on land that is zoned for residential uses.

#### **2.10 Permission - refused or revoked - past contravention**

The Fire Chief may revoke or refuse to grant permission or issue a permit for an open air burning or a special event if the proposed open air burning or special event would be in contravention of this policy; if the owner, occupant or permit holder has contravened the provisions of this policy in the past or if the owner, occupant or permit holder has not complied with any conditions attached to a permit for an open air burning that may have been imposed by the Fire Chief on a previous occasion.

#### **2.11 Permission - fuels - prohibit**

The Fire Chief shall not give permission for open air burning of any non-wood combustible material, pressure treated wood or creosote treated wood. Permissible fuels include clean dry seasoned wood, commercially produced charcoal, briquette or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

#### **2.12 Permission - withdrawal**

The Fire Chief may withdraw a special event permit and/or stop an open air burning if, in the Fire Chief's opinion, the fire is causing a negative impact on the occupants of adjacent land, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated and has become unfavorable for an open air burning, conditions attached to the granting of permission are not being adhered to or if this policy is being contravened.

#### **2.13 Permission - withdrawal - extinguish fire**

Upon notification by the Fire Chief to extinguish an open air burning the landowner, occupant or permit holder shall immediately extinguish the fire.

#### **2.14 Failure to extinguish - liable for costs**

Should the land owner, occupant or permit holder fail to immediately extinguish the fire upon notification from the Fire Chief, the land owner, occupant or permit holder may be held liable for any and all costs incurred by the Town of Tillsonburg Fire Department in its efforts to extinguish the fire.

**2.15 Order to extinguish unapproved fires**

When made aware of an unapproved open air burning, the Fire Chief shall order the landowner or occupant to immediately extinguish the fire.

**2.16 Order - owner - occupant - extinguish fire**

The owner or occupant of land on which an unapproved open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Chief.

**2.17 Failure to extinguish unapproved fires - liable for costs**

Should any land owner or occupant fail to extinguish an unapproved fire when ordered to do so by the Fire Chief, the Fire Chief may take action to have the fire extinguished, and 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 Town of Tillsonburg Fire Department in its efforts to extinguish the fire.

**Part 3**

**ENFORCEMENT/ENACTMENT**

**3.1 Regulations - offence**

No person shall fail to comply with regulations as set out in this by-law.

**3.2 Contravention - fine**

Any person who contravenes this by-law is upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

**3.3 Continuation – repetition – probation 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 person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

**3.4 Default – collection of costs**

The Municipality has the right to collect any unpaid costs associated with 2.12 and 2.15 of this by-law by action, in a like manner as municipal taxes, or Town Council may provide that the expense incurred, with interest, shall be payable in annual installments not exceeding ten years.

**3.5 Effective date**

This by-law comes into force on the day it is passed by Council.

Passed in Open Council on October 27, 2003

SEALED and NUMBERED 3072 this 27<sup>th</sup> day of October 2003.

Mayor 

Clerk 

Read a first and second time this 14<sup>th</sup> day of October, 2003.

Read a third time and finally passed this 27<sup>th</sup> day of October, 2003.

**SCHEDULE "A"**

To Town of Tillsonburg – Fire Department  
Open-Air Burning Policy

Special Event Open Burning Permit Fee	\$20.00
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