

MUNICIPALITY OF CHATHAM-KENT

FIRE DEPARTMENT

TO: Mayor and Members of Council
FROM: Ray Stone, Assistant Fire Chief
DATE: February 14, 2008
SUBJECT: A by-law to regulate open air burning in the Municipality of Chatham-Kent

RECOMMENDATION

It is recommended that:

1. The Mayor and Clerk be authorized to execute a by-law to regulate open air burning in the Municipality of Chatham-Kent.

BACKGROUND

In 1998, 19 Fire Departments were amalgamated into one fire department known as the Chatham-Kent Fire Department.

Prior to amalgamation, some fire departments in the County of Kent and the City of Chatham had open air burning by-laws, and some Townships had policies to cover open burning.

COMMENTS

In 2006, Council passed a By-law (268-2006) to regulate outdoor solid fuel combustion appliances (Appendix I). The attached proposed by-law (Appendix II) goes hand in hand with By-law #268-2006, and will establish a consistent approach to open air burning across the Municipality of Chatham-Kent.

The Canadian Lung Association has stated that smoke from open air burning is affecting the health of Canadians both in rural and urban areas. They further state that closing windows and doors does not prevent the pollution from entering a building.

The Ontario Fire Marshal has identified that approval by the Chief Fire Official is required for open air burning in proximity to buildings.

When this by-law to regulate open air burning in the Municipality of Chatham-Kent is in place, the Fire Department Station Chief of the area in which the open air burn will take place will be the Chief Fire Official's designate. The Station Chief will be the person responsible to determine the pile size and length of the burn, which could, upon approval, have a maximum of six months.

COMMUNITY STRATEGIC PLAN

The recommendation in this report supports the following objectives and strategic directions

- A: Health – We are a healthy community
 - A4 Foster a safe and caring community

- C: Environment – We are a green community
 - C2 Establish standards for environmental excellence

Desired outcomes

- Continue to encourage co-operative efforts among our police, fire, ambulance, 911, inspections, disaster service providers and community members.

- Increase air and soil quality in Chatham-Kent.

The recommendation will not adversely impact on the remainder of the Community Strategic Plan.

CONSULTATION

- By-laws from other municipalities pertaining to open air burning, prevention and spread of fire were reviewed.

- Guidelines for the by-law were obtained from the Office of the Fire Marshal.

- Discussions were held with the Manager, Environmental Health, Chatham-Kent Health Unit, regarding effects of smoke on air quality in Chatham-Kent.

- The Solicitor has reviewed the proposed by-law.

FINANCIAL IMPLICATIONS

Table A below shows that there has been an increase in the number of responses to unauthorized burns over the last three years.

TABLE A

Year	2005	2006	2007
Total Responses* (not incl. medical calls)	2,199	2,098	2,300
Unauthorized Burns	149	156	172
% of Total Responses	7.0%	7.4%	7.5%

Although an accurate projection is not possible at this moment, it is anticipated that this by-law will effect a reduction in calls to the Fire Department regarding unauthorized open air burning, which in turn should result in a positive financial impact for the Municipality.

Prepared by:

Reviewed by:

 Ray Stone
 Assistant Fire Chief

 Robert J. Crawford
 Fire Chief

Reviewed by:

 Gerry Wolting, B.Math., CA
 Acting Chief Administrative Officer

/jb

c. Manager, Environmental Health, Chatham-Kent Health Unit
 Solicitor

Attachments: Appendix I - By-law 268-2006
 Appendix II - A By-law to regulate open air burning in the
 Municipality of Chatham-Kent

MUNICIPALITY OF CHATHAM-KENT**BY-LAW NUMBER 268-2006****Being a By-Law to Regulate
Outdoor Solid Fuel Combustion Appliances**

WHEREAS the Council of the Corporation of the Municipality of Chatham-Kent deems it necessary in the public interest to regulate outdoor solid fuel combustion appliances.

AND WHEREAS the Council of the Corporation of the Municipality of Chatham-Kent may pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of the Municipality, are, or could become or cause public nuisances under Section 128 of the Municipal Act 2001, S.O. 2001,c.25 as amended;

AND WHEREAS the Council of the Corporation of the Municipality of Chatham-Kent considers excessive smoke, smell, airborne sparks and embers to be or could become or cause public nuisances by creating negative health effects on neighbouring residents, including fire exposure hazards, infringing on the enjoyment of the use of the neighbouring properties and generating false fire alarms;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT enacts as follows:

1.0 SHORT TITLE

- (1) This By-law may be cited as the "Outdoor Furnace By-law."

2.0 DEFINITIONS AND INTERPRETATION**2.1 In this By-law,**

- (1) "Outdoor solid fuel combustion appliance" means a solid fuel burning appliance/furnace used for the space heating of buildings, the heating of water or other such purpose; and which is located in a separate building or on the exterior of the building, which it serves.
- (2) "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.
- (3) "Person" means an individual, business, a partnership or a corporation.
- (4) "Municipality" means either The Corporation of the Municipality of Chatham-Kent or the Municipality of Chatham-Kent, whatever the context requires.
- (5) "Waste" means any material defined as waste in section 25 of the Environmental Protection Act, c.E19, R.S.O. 1990 as amended.

3.0 APPLICATION

This By-law shall apply to all lands within the geographic limits of the Municipality of Chatham-Kent.

4.0 GENERAL PROHIBITIONS

4.1 No person shall:

- (1) install outdoor solid fuel combustion appliances within the Municipality of Chatham-Kent:
 - i) not certified by Canadian Standards Association or any other accredited test laboratory
 - ii) in locations other than rear yards
 - iii) less than 30 m from any property line
 - iv) less than 15 m from the principal residence and principal residence on an adjacent property
 - v) unless the chimney for the appliances are equipped with spark arrestors and rain caps
- (2) Use outdoor solid fuel combustion appliances for the incineration of waste.
- (3) Store fuel for the appliances closer than 3 m from the appliances
- (4) Use fuel other than that approved in the manufacturer's operating instructions

5.0 APPROVALS

- (1) Prior to the installation of any outdoor solid fuel combustion appliance each appliance shall be approved by the Chief Building Official or designate and permit fees shall be as set out in the Municipal Building By-law
- (2) All outdoor solid fuel combustion appliances shall bear a C.S.A. or U.L. approval rating and be installed in accordance with the manufacturer's instructions.
- (3) Prior to the use of and following installation of any outdoor solid fuel combustion appliance each appliance shall be inspected and approved by the Chief Building Official or his/her designate.

6.0 OFFENCES AND PENALTIES

- (1) Any person who is in violation of any provisions of this by-law, upon conviction is guilty of an offence, and shall be liable to a fine pursuant to the Provincial Offences Act, R.S.O. 1990, c.P.33 as amended
- (2) Should any section, clause or provision of this by-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of this by-law shall not be affected.

THIS By-law shall come into full force and effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME this 18th day of December, 2006.

Original Signed by

Mayor – Randy R. Hope

BY-LAW NUMBER _____

OF THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

A by-law to regulate open air burning fires in the Municipality of Chatham-Kent.

FINALLY PASSED the _____ day of _____, 2008

WHEREAS S.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 Council received a report from the Fire Department on the issues surrounding open air fires and how to most appropriately deal with citizen requests to permit them;

AND WHEREAS it is deemed advisable to exercise the authority conferred by the Act within the Municipality;

AND WHEREAS Council considers excessive smoke, smell, airborne sparks with ember to be or could become or cause negative public nuisance by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the use and enjoyment of neighbouring properties:

THEREFORE the Municipal Council of the Corporation of the Municipality of Chatham-Kent enacts as follows:

1. DEFINITIONS

In this by-law:

- 1.1 **“Barbecue”** means an appliance designed and intended solely for the cooking of food in the open air but does not include devices predominantly designed for personal warmth.
- 1.2 **“Chief Fire Official”** means the Fire chief of the Municipality of Chatham-Kent, or a member or members of the Fire Department designated by the Fire Chief.
- 1.3 **“Council”** means the Council of the Municipality of Chatham-Kent.
- 1.4 **“Dangerous Conditions”** means:
 - (a) A lack of precipitation which, as identified by Environment Canada for the area of Chatham-Kent , increases the risk of the spread of fire;
 - (b) wind speeds which, in the opinion of the Chief Fire Official, increases the risk of the spread of fire; or
 - (c) any other condition declared by the Chief Fire Official to be a dangerous condition, from time to time, which increases the risk of the spread of fire.
- 1.5 **“Enclosed Fire”** means a fire set in a container constructed for incineration purposes according to specifications of the Ontario Fire Code.

- 1.6 **“Equipment and Resources”** means sufficient personnel and equipment such as rakes, shovels, backhoes, bulldozers, front-end loaders, and/or water on-site required to control a fire.
- 1.7 **“Fire”** means any fire set in the open air by any person within the boundaries of the Municipality, but does not include an enclosed fire.
- 1.8 **“Fire Pit”** means a small non-combustible container used to contain a small fire.
- 1.9 **“Fire Department”** means the fire department of the Municipality.
- 1.10 **“Licensed Recreational Camp”** means any Summer Camp, Tourist Camp or Trailer Camp as defined in Chatham-Kent By-law Number 367 – 2002.
- 1.11 **“Municipality”** means the Municipality of Chatham-Kent.
- 1.12 **“Ontario Fire Code”** means O.Reg. 213/07 made under the Fire Protection and Prevention Act 1997 , S.O.1997.c.4, as amended.
- 1.13 **“Permit”** means the permit issued by the Chief Fire Official signifying permission to set a fire and establishing the conditions under which the permit is granted.
- 1.14 **“Person”** means any individual, association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representation of a person.
- 1.15 **“Strike”** means a strike as defined in the *Labour Relations Act, 1995*, S.O. 1995, c.1, Schedule A;

2. GENERAL PROVISIONS

- 2.1 No Person shall set a Fire or allow a Fire to burn without first having obtained a Permit from the Chief Fire Official or his designate.
- 2.2 No Person being the owner or tenant in possession of lands within the Municipality shall cause or permit a Fire to be set on such lands unless a Permit has been issued by the Chief Fire Official in respect of that Fire.
- 2.3 Notwithstanding, but in addition to any provisions herein, no Person shall cause or permit a Fire to be set:
- (a) In contravention of the Environmental Protection Act, or any other statutory requirements of the Province of Ontario or the Government of Canada;
 - (b) on any highway, or other public property within the Municipality;
 - (c) in any park owned or operated by the Municipality without the written permission of the Municipality;
 - (d) in the front or side yard of any commercially or industrially zoned property within the Municipality;
 - (e) where the consumption of material will exceed the limit set by the Chief Fire Official;
 - (f) unless the Equipment and Resources designated on the Permit are available at fire site at all times during the fire;
 - (g) with the aid of flammable or combustible liquids or accelerants of any kind;

- (h) unless the Person to whom the Permit has been issued or such other Person as may be designated in the Permit is at least eighteen (18) years of age, and is in attendance at the fire in a responsible and supervisory capacity at all times until such fire has been completely extinguished;
- (i) on any site, or in the vicinity of any site, where construction or related activities are carried on; and
- (j) in any outdoor fireplace or any other burning appliance unless same is approved by the Chief Fire Official.

2.4 No Fire in the open air shall be maintained when the wind is in excess of thirty (30) kilometres per hour or in such a direction or intensity to cause any or all of the following:

- (a) The possible spread of the Fire beyond the approved burn site.
- (b) A decrease in the visibility on any highway or roadway.
- (c) Any odour to such an extent or degree so as to cause discomfort to the Persons in the immediate area.

2.5 No Fire shall be set or maintained when rain or fog is present.

3. EXEMPTIONS

3.1 No permit shall be required for :

- a) a Barbecue: or
- b) a Fire pit

3.2 The Chatham-Kent Fire Department shall be exempt from the provisions of this by-law with respect to open air burnings set for the purposes of educating and training individuals.

3.3 Open air burning during a Strike, shall be subject to a Permit and the conditions attached to it.

4. BARBECUES

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

4.2 Barbecues being used to cook food shall be attended, controlled and supervised at all times by a competent person.

5. FIRE PITS

5.1 An owner or occupant may conduct an open-air fire if contained in a pit specifically designed for open air burnings.

5.2 The following regulations shall apply with respect to open air burnings in fire pits:

- (a) Open air burnings shall be conducted between the hours of 4.00 PM and 11.00 PM only;
- (b) open air burnings shall be confined to a location that provides for a minimum clearance of fifteen (15) metres (50 feet) from property lines and combustible structures or objects;
- (c) open air burnings shall be confined to a location that provides for a minimum clearance of five (5) metres (16 feet) from combustible structures or objects when used in a Licensed Recreational Camp;
- (d) open air burnings shall be contained to non combustible containers or to a pit no larger than sixty-one (61) centimetres (2 feet) by sixty-one (61) centimetres (2 feet) in size;
- (e) no more than eight (8) inches (21 centimetres) of the containment area shall be above grade with a maximum depth of sixteen(16) inches (42 centimetres);
- (f) the open air fire will be for cooking purposes only and must have a grill on it, once the cooking is complete the fire is to be extinguished;
- (g) no materials other than commercially produced charcoal, briquette or clean, dry seasoned wood may be burned;
- (h) the dimensions of the fuel shall be no greater than the dimensions of the container or fire pit and shall be totally confined within the container or pit at all times;
- (i) an effective extinguishing agent of sufficient size and the capability of extinguishing the fire shall be within 3 metres of the fire;
- (j) open air Fires shall be attended, controlled and supervised at all times by a Person at least eighteen (18) years of age and shall be completely extinguished before the site is vacated;
- (k) open air Fires are not permitted when the wind speed exceeds thirty (30) kilometres per hour or during foggy or rainy weather or at times when a smog alert has been declared for Chatham-Kent by the Ministry of Environment Ontario; and
- (l) the owner or occupant 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 or the environment.

6. ISSUANCE OF PERMIT

6.1 A Permit for a Fire may not be issued until an inspection of the burn site has been made by the Chief Fire Official or his designate.

6.2 A Person who intends to set or maintain a Fire may be issued a Permit and shall adhere to the provisions of the issued Permit.

6.3 No person who is issued a Permit shall set a Fire after sunset in the afternoon on any day or before sunrise in the forenoon of any day.

7. ADMINISTRATION AND ENFORCEMENT

- 7.1 This by-law shall be administered and enforced by the Chief Fire Official or his designate.
- 7.2 Notwithstanding section 2 of this by-law, the Chief Fire Official may revoke any or all Permits; or refuse to issue Permits where, in the opinion of the Chief Fire Official, the ability to control the fire is hampered by the existence in or near the proposed site of a Dangerous Condition.
- 7.3 If any Person who fails to comply with provisions of this by-law or who fails to extinguish a fire once notification to do so has been given to him by the Chief Fire Official shall, in addition to any penalty provided for herein, be liable to the Municipality for all expenses reasonably incurred for the purpose of controlling and extinguishing of any fire so set or left to burn.
- 7.4 If any court of competent jurisdiction finds that any of the provisions of this by-law are ultra vires of the jurisdiction of the Council to pass or is invalid for any reason, such provision should be deemed to be severable and shall not invalidate any of the other provisions of this by-law.

Schedule "A" attached hereto forms part of this by-law.

8. OFFENCES

- 8.1 Any Person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of costs as prescribed by the Provincial Offences Act, R.S.O. 1990, c.P.33 as amended.

This by-law replaces and repeals any previous by-law in respect of the regulation of Fires herein defined and shall come into full force and effect upon the final passing thereof.

READ A FIRST, AND SECOND AND THIRD TIME this _____ day of _____, 2008.

Mayor – Randy Hope

Clerk – Elinor Mifflin



APPLICATION FOR OPEN AIR BURNING

PERMIT # _____
(YY,MM,DD- STN#)

Note to Applicant:

1. Open Air Burning is regulated by Division B, Sentence 2.6.3.4. (1) of R.S.O. 1997, Reg. 213/07.c.4., as amended by the Ontario Fire Code.
2. Read and complete all particulars of the application including a sketch. Sign and return to the respective municipal Service Centre or Fire Official. Confirmation will be given to you by the Fire Official prior to burning.
3. Allow 7 (seven) days for processing.

Part #1

1. Applicant's Name: _____
Name of Responsible Party: _____
2. Address: _____

3. Phone and/or Fax Numbers: Phone: _____
Fax: _____
4. Describe location of proposed fire (must also provide sketch):

5. 911 Address / Street Address: _____
6. Describe proximity of proposed fire in feet or metres:
 - buildings _____
 - vegetation _____
 - overhead wires _____
 - other combustibles _____
7. Describe material to be burned:

8. Estimate volume of material to be burned in cubic yards or cubic metres: _____
Largest Pile size in metres: _____
9. Request taken by: _____ Date: _____
10. Request approved: _____ Denied: _____ Date: _____
Fire Official: _____

I have read and understand the conditions in Part 2 overleaf:

_____ Date: _____

It is the responsibility of the applicant to contact the Chatham-Kent Central Fire Dispatch at 352-1100 with both the permit # and the time of fire prior to commencing burning and after fire is extinguished!

Part #2

Conditions and Recommendations

1. Pursuant to Division B, Sentence 2.6.3.4.(1) of Ontario Regulation 213/07, conditions of approval for Open Air Burning are as follows:

- Burn only after sunrise and before sunset.
- Burn only dry materials. Petroleum products, plastics, rubber, painted/treated lumber or anything else that will cause excessive smoke or fumes must not be burned.
- Mixed demolition or construction debris is not suitable for Open Air Burning.
- Burn less than 1 cubic metre or ____ cubic metres of material at a time.

(NO FIRE CAN BE LARGER THAN 5 CUBIC METRES)

- Keep fires a minimum of 15metres □ , 30 metres □ or 45 metres □ from any building, property line, hedges or combustibles.
- An area of 5 metres □, 10 metres□ or 15 metres □ clear of vegetation around the pile to be burned.
- Stay with the fire at all times until it is completely extinguished.
- Adequate equipment and resources must be available at the burning site to extinguish the fire, in the event the fire gets out of control or is causing an adverse effect.
- Open Burning must not be conducted under the following weather conditions:
 - during rain or fog (smoke cannot disperse properly)
 - when wind speeds are higher than 30 kph or wind direction changes frequently (fire may spread rapidly)
 - during extremely dry or adverse conditions

NOTE:

The above are recommended by Ministry of Environment & Energy and the Chatham-Kent Fire Department.

SKETCH :

