

CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC**BY-LAW NO. 17-12****A BYLAW TO PROVIDE FOR THE REGULATION OF OPEN AIR BURNING IN THE CORPORATION OF THE MUNICIPALITY OF STRATHROY- CARADOC**

WHEREAS the Council of the Corporation of the Municipality of Strathroy-Caradoc ("Council") is empowered under Section 7.1 of the *Fire Protection and Prevention Act, 1997*, as amended, to pass by-laws regulating fire prevention, including the prevention of the spreading of fires, and the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Council is empowered under Section 128 of the Municipal Act, 2001, as amended, to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are, or could become or cause public nuisances;

AND WHEREAS Council is empowered under Section 11 of the Municipal Act, 2001, as amended, to regulate matters relating to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Council is empowered under Part XII of the Municipal Act, 2001, as amended, 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 behalf of it;

AND WHEREAS Council is empowered under Part XII of the Municipal Act, 2001, as amended, to direct or require by by-law or otherwise that any matter or thing be done, and the municipality may direct that, in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and the municipality may recover the expense, including interest, in doing it by action or by adding the costs to the tax roll and collecting them in the same manner as taxes, or Council may provide that the expense incurred by it, with interest, shall be payable by such person in annual installments not exceeding five (5) years;

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 fire alarms;

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 MUNICIPALITY OF STRATHROY-CARADOC ENACTS AS FOLLOWS:

Part 1

DEFINITIONS

1.1 Definitions

In this by-law:

"Barbecue" 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" shall mean the Fire Chief for the Municipality of Strathroy - Caradoc Fire Department and Officers of the Municipality of Strathroy - Caradoc Fire Department acting under the Fire Chief's direction.

"Nuisance" shall mean excessive smoke, smell, air borne sparks or embers that is likely to disturb others.

"Open Air" means any open place, yard, field or construction area which is not enclosed by a building or structure.

"Open Air Burning" means a fire set in the open air.

"Permit Holder" shall mean the person, organization, company or group that has been granted by the Fire Chief a permit under section 2.5 for a special event to hold an open air burning.

"Rural area" shall mean the lands that are designated under the Official Plan as Agricultural use in the Municipality of Strathroy-Caradoc.

"Municipality" shall mean The Corporation of the Municipality of Strathroy-Caradoc.

"Urban area" shall mean the lands that are designated under the Official Plan which includes Strathroy, Mt. Brydges and Melbourne, and includes the hamlets of Campbellvale and West Delaware and any area that is considered a built-up area.

"Poor Air Quality Day" shall mean any period of time when a Poor Air Quality advisory has been issued by Environment Canada or other recognized health or meteorological agency.

"Prohibited Burn Materials" shall include household waste, human or animal excrement, leaves, grass, treated lumber, insulation, asphalt shingles or other construction materials, commercial by-products such as those generated from woodworking, deck building or landscaping businesses, tires, rubber, plastic,

Styrofoam, petroleum or other potentially toxic waste materials.

Part 2

GENERAL PROVISIONS

2.1 Open Air Burning - Regulations

No person shall conduct an open air burn within the Municipality of Strathroy-Caradoc unless the Fire Chief has given permission.

No person shall burn anything defined as Prohibited Material.

All Open Air Burning shall comply with the provisions of the *Environmental Protection Act*, R.S.O. 1990, as amended.

No Open Air Burning will be permitted at the discretion of the Fire Chief when a Smog Alert has been issued by the Ministry of the Environment for the region that includes the Municipality.

2.2 Permission - Recreational Burning

With respect to Section 2.1 above, the Fire Chief grants permission, without the requirement for a permit, for open air burnings that are contained within noncombustible containers or pits specifically designed for open air burnings.

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

- (a) Recreational open air burnings may be conducted between the hours of 4 PM and Midnight only.
- (b) No materials other than commercially produced charcoal, briquettes, or clean dry seasoned wood may be burned.
- (c) Recreational open air burning shall be confined to non-combustible containers or a pit no larger than two (2) feet (60 centimetres) by two (2) feet (60 centimetres) in size.
- (d) Recreational open air burning shall be conducted 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 wood being burned shall not be greater than the size of the container or fire pit and shall be totally confined within the container or pit at all times.

- (f) A recreational open air burn shall be confined to a location that provides for a minimum distance of 3 metres (10 feet) in all direction from adjacent properties.
- (g) Recreational open air burnings shall be confined to an area that is a minimum of 3 metres (10 feet) from combustible structures or objects.
- (h) An effective extinguishing agent of sufficient size and with the capacity of extinguishing the fire shall be immediately available for use.
- (i) Recreational open air burnings shall be attended, controlled and supervised at all times by the owner, occupier or permit holder, or designate, and shall be completely extinguished before the open burn site is vacated.
- (j) Recreational open air burnings are not permitted when the wind speed exceeds 15 kilometres per hour or during rainy or foggy weather or any other day that a Poor Air Quality Advisory has been issued.
- (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 - Barbecues

Despite Section 2.1 above, permission is not required from the Fire Chief for the use of a barbecue to cook food. Barbecues being used to cook food shall be attended controlled and supervised at all times by the owner, occupant, or his/her designate.

2.4 Barbecues - Approved Fuels

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.

2.5 Permit - Special Events

Only a community not-for-profit organization or a religious institution may apply for an open air burning fire permit to conduct campfires or open air fires for cultural, religious or recreational specific 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 barbecue 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.

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 10 A.M. to Midnight.

2.5.1 Special Events 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.

2.5.2 Special Events 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.

2.5.3 Special Events Permit - Refusal for Residential Land

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

2.5.4 Special Events Permission - Fuel - 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, briquettes or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

2.5.5 Special Events Permission - Withdrawal

The Fire Chief may withdraw a special event permit and/or stop an open air burning if, in the Fire Chiefs 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 unfavourable for an open air burn, conditions attached to the granting of permission are not being adhered to or if this by-law is being contravened.

Upon notification by the Fire Chief to extinguish an open air burning, the land

owner, occupant or permit holder shall immediately extinguish the fire.

Part 3

SPECIAL REGULATIONS FOR RURAL AREA

3.1 Permission - Brush Burning - Telephone

Notwithstanding Part 2 of this by-law, all persons proposing to conduct an open air burning of brush and dry seasoned wood in the rural area as defined by this by-law, shall notify the Fire Chief or his/her designate in person or by telephone before commencing such open air burning. The Chief or his/her designate shall notify Strathroy - Caradoc Fire\Police Communications Centre of said permission.

3.2 Notification at Conclusion of Burning - Rural Area

All persons, who have given notification pursuant to section 3.1 above, shall notify Strathroy - Caradoc Fire\Police Communications Centre at the conclusion of the burning.

3.3 Regulations Regarding Open Air Burning - Rural Area

Open air burning may be conducted between the hours of 7:00 A.M. and 7:00 P.M. only

- (a) No materials other than dry brush and dry seasoned wood may be burned.
- (b) Open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated.
- (c) Open air burnings are not permitted during rainy or foggy weather or any other day that a Poor Air Quality Advisory has been issued.
- (d) An open air burning shall be confined to an area which is at least 45 metres (150 feet) from any building, highway, road, wooded area, or property line.
- (e) Steps must be taken to ensure that smoke caused by an open air burn does not have a negative impact on the visibility of motorists using roads in the vicinity of the burn.

3.4 Notification to Extinguish

All persons conducting an authorized open air burn in the rural area shall immediately extinguish the fire upon notification that in the Fire Chiefs opinion, the said fire is having a negative impact on persons using a road or highway adjacent to the burn site or the regulations of this by-law are being contravened. . In the event that in the opinion of the senior fire official on scene determines that said open burn cannot be extinguished effectively and in a

timely manner by the owner/occupant, shall extinguish said open burn utilizing fire department resources as required.

3.5 Liable For Costs

Section 4 of this bylaw shall apply should any person fail to comply with the request of the Fire Chief in section 3.4 above.

Part 4

ADMINISTRATION AND ENFORCEMENT

4.1 Any person who contravenes any provision of this By-law shall be liable for costs incurred by the Municipality of Strathroy-Caradoc including personnel, equipment and apparatus called to investigate, respond or extinguish said fire.

4.2 The Strathroy-Caradoc Fire Department shall upon being dispatched to a reported unauthorized open burn, may respond with one or more fire apparatus and upon arrival shall determine if a violation to this by-law exists and may direct the owner/occupant to immediately extinguish such open burn that is in violation of this by-law. In the event that in the opinion of the senior fire official on scene determines that said open air burn cannot be extinguished effectively and in a timely manner by the owner/occupant, shall extinguish said open air burn utilizing fire department resources as required.

The senior responding fire official shall file a report with the Fire Chief on return to the station and the Fire Chief shall have the authority to invoice the owner/occupant of the property affected in accordance with the Fees for Service Policy of the Municipality of Strathroy-Caradoc.

In addition to charges for services provided for by the Municipality, any person who is convicted of an offense under this by-law is liable to a fine and penalty pursuant to the provisions of the Provincial Offenses Act, R.S.O. 1990, as amended, or any successor thereof, or in the Municipal Act 2001 S.O.2001 as amended or any successor thereof, or in the Fire Protection and Prevention Act, 1997, S.O. 1997 as amended or any successor thereof.

4.3 This by-law shall be administered by the Fire Chief. This by-law shall be enforced by the Fire Chief, Police Officers of the Municipality of Strathroy-Caradoc and persons designated as by-law enforcement officers and those who are designated as provincial offenses officers.

4.4 Regulation – Offence

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

4.5 Default - Collection Of Costs

- (a) All fees and charges set out in this By-Law for Fire Department response shall be due within thirty (30) days of the issue of an invoice from the Municipality of Strathroy-Caradoc.
- (b) In the event that any fee or charge imposed herein remains unpaid after provision of the service or is otherwise in arrears, such fees or charges may be added to the Tax Roll for the real property in the Municipality, the owner of which is responsible for paying the fee or charge and shall be collected in like manner as municipal taxes.
- (c) Council does hereby delegate to the Fire Chief of the Municipality of Strathroy-Caradoc, the authority to administer such fees and charges and to provide such forms and procedures as may be required for the efficient administration of such fees and charges.

Part 5

VALIDITY

If a court of competent jurisdiction declares any provision or a part of a provision of this by-law to be invalid or to be of no force and effect, it is the intention of Council that the remainder of this by-law shall continue to be in force.

Part 6

EXEMPTION

The Municipality of Strathroy-Caradoc 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.

Part 7

SHORT TITLE

This by-law shall be known as the Open Air Burning Regulations By-law.

Part 8

Repeal

- 8.1** Municipality of Strathroy-Caradoc By-law 11-06 is repealed.

Part 9

Effective Date

This by-law comes into force and takes effect upon its final passage in Open Council.

Read a first, second and third time and FINALLY PASSED in Open Council this 2nd day of April, 2012.

Original signed by Joanne Vanderheyden

Original signed by Angela Toth

MAYOR

CLERK