

MUNICIPALITY OF MIDDLESEX CENTRE

BY-LAW NUMBER 2010-028

BEING A BY-LAW TO REGULATE THE ESTABLISHMENT OF OPEN AIR BURNING

WHEREAS the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, Section 7(1)1(a)(b), as amended states that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of the spreading of fires, and regulating the setting of open air fires, including establishing 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 barbeque to cook food, provided such devices contain a small contained fire which is supervised at all times;

AND WHEREAS Section 5 (3) of the Municipal Act allows Councils of Municipalities to pass by-laws;

AND WHEREAS the Council of the Municipality of Middlesex Centre deems it appropriate to enact a by-law to regulate open air burning;

NOW THEREFORE the Council of the Municipality of Middlesex Centre hereby enacts as follows:

DEFINITIONS

“Acceptable Burn Material” means commercially produced charcoal or briquettes, small amounts of white or brown paper or cardboard used to start a fire, dry seasoned wood that has been generated on the landowners own property, dry wood by-products that have not been chemically treated, painted or stained, purchased fire logs or purchased firewood sold for the purpose of recreational campfires and not exceeding the maximum permitted Recreational Fire dimensions defined in this By-Law.

“Cooking Fire” means a small, confined fire supervised at all times and used to cook food on a grill or barbeque.

“High Risk Period” means any period of time, when due to extreme dry, high wind or other conditions, there is a higher than normal risk of unwanted spread of fire, as determined by the Ontario Fire Marshal or the Middlesex Centre Fire Chief, and identified as a High Risk Period.

“Middlesex Centre Fire Chief” means the Fire Chief of the Municipality of Middlesex Centre or his or her designate.

“Open Air Burning” means a fire set in the Open Air.

“Open Fire” means any open fire other than that defined as a “Cooking Fire” or “Recreational Fire” under this By-Law.

“Poor Air Quality Day” means any period of time when a Poor Air Quality Advisory has been issued by Environment Canada or other recognized government health or meteorological agency.

“Prohibited Burn Materials” means any material other than as described under “Acceptable Burn Materials”. Specifically prohibited under this By-Law and not to be burned under any circumstances 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 wood working, deck-

building or landscaping businesses, tires, rubber, plastic, Styrofoam, petroleum or other potentially toxic waste materials.

“Recreational Fire” means a small outdoor fire such as a campfire set within a confined area or device such as an outdoor fireplace or fire pit, situated in a “Safe Location” and measuring no more than 0.70m (27”) in any dimension and supervised at all times.

“Restricted Area” means those lands within the Municipality of Middlesex Centre delineated and identified in the attached Schedule “A”.

“Safe Location” means outdoors and not on a porch or balcony area that is roofed or otherwise covered, or near dry vegetation, or in any other place conducive to unwanted development or spread of fire or explosion, or supported by combustible material. The Safe Location shall be a minimum of 5 metres from any structure and a minimum of 3 metres from adjacent property lines. The setbacks for a safe location do not apply to campgrounds licensed under the Municipality of Middlesex Centre’s current Campground Licensing By-law.

“Unrestricted Area” means those lands within the Municipality of Middlesex Centre other than those delineated and identified in the attached Schedule “A”.

GENERAL PROVISIONS

- 1) No person shall set or maintain a fire in contravention of the Ontario Fire Code, the Environmental Protection Act R.S.O. 1990, Chapter E. 19, or any other statutory requirements of the Province of Ontario or the Dominion of Canada.
- 2) No person shall set a Recreational Fire or an Open Fire during a period identified as a Poor Air Quality Day or a High Risk Period.
- 3) No person shall set a Recreational Fire or an Open Fire so as to have smoke or debris interfere with vehicular traffic or otherwise pose a safety hazard on a public roadway.
- 4) No person shall set a Recreational Fire or an Open Fire if the wind conditions or the quality of the burn restricts neighbours from enjoyment of the normal use of their property or causes discomfort to persons in the immediate area.
- 5) Cooking Fires and Recreational Fires shall be permitted within Restricted Areas and Unrestricted Areas and every person who sets a cooking or recreational fire shall comply with the following regulations:
 - a) The fire must be set in a Safe Location, on the landowners own property and contained within an appropriate device;
 - b) The fire must be fueled only with Acceptable Burn Materials;
 - c) The fire must be supervised at all times;
 - d) Effective means of extinguishment must be readily available, and
 - e) The fire must be fully extinguished before being left unsupervised.
- 6) No person shall set an Open Fire in Restricted Areas as identified in Schedule “A” of this By-law.
- 7) No person shall set fires for training purposes or fire extinguisher safety demonstrations, without the prior approval of the Middlesex Centre Fire Chief.
- 8) No person shall burn anything defined as Prohibited Material.
- 9) Open Fires set to eliminate Acceptable Burn Materials are permitted within Unrestricted Areas and every person who sets an Open Fire shall comply with the following regulations:
 - a) Contact Fire Dispatch at 519-661-5615 immediately prior to starting an Open Fire as well as contacting Fire Dispatch upon extinguishment of the fire.

Notification to Fire Dispatch is not required for Cooking Fires or Recreational Fires as defined in this By-Law;

- b) Open fires must be confined to daylight hours;
- c) Open fires must be set on the landowners own property;
- d) Open fires must be fueled only with Acceptable Burn Materials;
- e) Open fires must be supervised at all times;
- f) Effective means of extinguishment must be readily available;
- g) Open fires must be fully extinguished before being left unsupervised, and
- h) Acceptable burn material must be generated on the landowners property.

10) The restrictions contained within this by-law are also applicable to the use of enclosed heating devices and incinerating devices.

LIABILITY & ENFORCEMENT

The following Liability and Enforcement provisions shall apply to all Open Air Burning within the Municipality of Middlesex Centre.

11) Where Open Air Burning is permitted under this By-Law, any person who starts a fire shall:

- a) Take all reasonable steps to keep the fire under control including continuous supervision and ready access to effective means of extinguishment;
- b) Extinguish the fire before leaving the site of the fire;
- c) Be responsible for any damage to property or injury to persons that may result from the said fire, and
- d) Be liable for costs incurred by the Municipality of Middlesex Centre, including personnel, equipment and apparatus necessarily called to investigate, respond or extinguish said fire.

12) Any person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine not exceeding \$5,000.00 under the Provincial Offences Act; and may also be liable for costs established under the By-Law to Establish Fees that being a By-Law to Establish Various Fees and Charges for Services provided by the Municipality of Middlesex Centre.

PROVINCIAL LEGISLATION

Nothing in this By-Law shall supersede or waive the requirements of any Provincial Legislation and/or Regulation.

BY-LAWS REPEALED

By-Law Numbers 2007-060 and 2009-019 are hereby repealed.

FORCE AND EFFECT

This By-Law shall come into full force and effect upon third and final reading.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED on this 7th day of April, 2010.

Mayor

Clerk

**MUNICIPALITY OF MIDDLESEX CENTRE
BY-LAW 2010-028
OPEN AIR BURNING BY-LAW**

**SCHEDULE "B"
SHORT FORM WORDING AND SET FINES
PART I PROVINCIAL OFFENCES ACT**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Burn on poor air quality day or high risk period	Sect 2	\$ 250.00
2.	Smoke or debris causing hazard on roadway	Sect 3	\$ 200.00
3.	Smoke causing loss of enjoyment to neighbouring properties	Sect 4	\$ 100.00
4.	Cooking or recreational fire not in safe location	Sect 5(a)	\$ 100.00
5.	Cooking or recreational fire fueled by prohibited burn materials	Sect 5(b)	\$ 200.00
6.	Cooking or recreational fire left unsupervised	Sect 5(c)	\$ 100.00
7.	Cooking or recreational fire with no means of extinguishment	Sect 5(d)	\$ 100.00
8.	Fail to extinguish cooking or recreational fire	Sect 5(e)	\$ 100.00
9.	Open fire burning in restricted area	Sect 6	\$ 200.00
10.	Set fire for training purposes or demonstration without approval	Sect 7	\$ 200.00
11.	Burning prohibited material	Sect 8	\$ 300.00
12.	Fail to call Fire Dispatch	Sect 9(a)	\$ 100.00
13.	Burning outside daylight hours	Sect 9(b)	\$ 100.00
14.	Fail to supervise open fire in unrestricted area	Sect 9(e)	\$ 100.00
15.	Open fire with no means of extinguishment	Sect 9(f)	\$ 100.00
16.	Fail to extinguish open fire in unrestricted area	Sect 9(g)	\$ 100.00
17.	Burning of materials not generated on property	Sect 9(h)	\$ 300.00

NOTE: The penalty provision(s) for the offence(s) indicated above is Section 12 of By-law Number 2010-028, a certified copy of which by-law has been filed.