

THE MUNICIPALITY OF SOUTHWEST MIDDLESEX

BY-LAW NO. 75/2001

Being a by-law for prescribing the time during which fires may be set in the open air and the precautions to be observed by persons setting out fires.

WHEREAS Section 210(35)R.S.O. 1990, Chap.M.45, as amended, provides that Councils of municipalities may pass by-laws for prescribing the times that fires may be set and the precautions to be observed by persons setting fires;

AND WHEREAS Section 210(49) R.S.O. 1990, Chap.M.45, provides that Council may make such other regulations for preventing fires and the spread of fires as is considered necessary;

AND WHEREAS Section 220.1 of the Municipal Act authorizes a municipality to pass a by-law imposing a fee or charge on any class of persons for services or activities provided or done by on behalf of it;

AND WHEREAS Section 326, R.S.O., 1990 Chap.M.45, provides that where a council has authority to direct or require by bylaw or otherwise that any matter or thing be done, the council may by the same or by another by-law direct that, in default of its 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 corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes;

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 time.

AND WHEREAS the Fire Protection and Prevention Act, Chap.4, R.S.O., 1990, as amended, authorizes the municipality to recover costs;

AND WHEREAS the Amalgamation Order made under the Municipal Act states that the new Municipality may have more than one fire department and may have a fire chief for each department;

NOW THEREFORE the Municipal Council of the Municipality of Southwest Middlesex ENACTS as follows:

DEFINITIONS

1. **"Barbecue"** appliances include 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 predominantly designed for personal warmth, fire pits or camp fires.
2. **"Fire Chief"** means one of the Chiefs of the designated fire areas.
3. **"Open Air"** means any open place, yard, field or construction area which is not enclosed by a building or structure.
4. **"Open Air Burning"** means the burning of any material, including

without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is, thereby, open to the air.

5. **“Open Burning Device”** shall mean any commercially manufactured device for the purpose of containing a recreational fire.
6. **“Restricted Areas”** shall mean any areas which are designated on Schedule “A” attached to this by-law indicated as Villages - Southwest Middlesex.
7. **“Rural Area”** shall mean any area which is outside the hamlets of Appin, Glencoe, Melbourne, Middlemiss and Wardsville.

ADMINISTRATION

The Fire Chief for each fire area shall be responsible for administration and enforcement of this by-law.

GENERAL PROVISIONS

1.1 Open Air Burning - Regulations

No person shall conduct, or permit to be conducted, an open air burning within the boundaries of the Municipality of Southwest Middlesex unless permission has been given by the Fire Chief for the applicable area.

1.2 Exception - Recreational Burning

Despite Section 1.1 above, permission is not required from the Fire Chief for open air burnings associated with the use of open burning devices or pits specifically designed for open air burnings, provided that each of the following regulations are complied with:

- a) open air burning may only be conducted between the hours of 10:00 a.m. and 11:00 p.m.;
- b) open burnings shall be confined to open burning devices or to a pit no larger than two (2) feet (61 centimeters) by two (2) feet (61 centimetres) in size. When in use, the open burning device or pit shall be covered with a heavy gauge metal screen having a mesh size no larger than one (1) inch (26 millimetres) and which is positioned in such a manner as to preclude the escape of combustible materials including ash;
- c) no materials other than commercially produced charcoal, briquets or clean, dry seasoned wood, not including pressure treated wood or creosote treated wood, may be burned;
- d) the dimensions of the wood being burnt shall not be greater than the size of the appliance or fire pit and shall be totally confined within the appliance or pit at all times;
- e) an open air burning shall be confined to a location that provides for a minimum distance of 3 metres in all directions from adjacent properties.

- f) open air burnings shall be confined to an area that is a minimum of 3 metres from combustible structures or objects;
- g) 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;
- 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 are not permitted when the wind speed exceeds 30 kilometres per hour or during rainy or foggy weather or at times when a smog alert has been declared by the Ministry of the Environment for Ontario; and
- j) steps are taken to ensure that adjacent properties are protected from fire hazard.

1.3 **Exception - Barbecues**

Despite Section 1.1 above, permission is not required from the Fire Chief for the use of barbecues to cook food, provided the followings regulations are complied with:

- a) the barbecue is supervised at all times and such appliance complies with the regulations of size found in section 1.2(b).
- b) the fuel used is a commercially produced charcoal or briquet, or a flammable liquid commercially produced for the purpose of cooking such as natural gas and propane gas.

1.4 **Permit - Special Events**

- a) All persons seeking permission to hold a special event involving an open air burning that is not a recreational burning as per section 1.2 and does not employ the use of a barbecue as per section 1.3 shall apply to the Fire Chief for a permit to have an open fire at such event.
- b) Application shall be made a least one week prior to the proposed date of the event on a form supplied by the Fire Chief and such application should be accompanied by the applicable fee as set out in Schedule "B" to this bylaw. The Fire Chief may issue permits to allow a special event to reoccur over an extended period of time. Registered not-for-profit charitable organizations may make application to the Fire Chief requesting a permit fee exemption.
- c) 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.
- d) The Fire Chief may refuse to grant a permit to hold open air burnings at special events which are proposed to take place on land that is zoned for residential uses.

- e) The Fire Chief may refuse to grant a permit for an open air burning if the proposed open air burning would be in contravention of this by-law, if the applicant has contravened the provisions of this by-law in the past or if the applicant 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.
- f) 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, briquets and flammable liquids such as natural gas and propane gas intended for cooking.
- g) The Fire Chief may attach such conditions as deemed appropriate to any permit granted for an open air burning at a special event.
- h) The Fire Chief may withdraw permission for and/or stop an open air burning if, in the Fire Chiefs opinion, the fire presents a fire hazard, 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 by-law is being contravened.
- i) Upon the notification of the withdrawal of permission by the Fire Chief, the applicant shall immediately extinguish the fire.
- j) Should the applicant fail to immediately extinguish the fire upon notification from the Fire Chief, the applicant may be held liable for any and all costs incurred by the municipality to extinguish the fire.

SPECIAL REGULATIONS FOR RURAL AREA

2.1 Permission - Burning - Telephone

No person shall conduct, or permit to be conducted an open air burning in the rural area which is not authorized under Section 1.2, 1.3 or 1.4 without first notifying the Chief or his/her designate in person or by telephone and complying with the provisions of Section 2.3 below.

2.2 Notification at Conclusion of Burning - Rural Area

All persons who have given notification pursuant to Section 2.1 above, shall notify the Chief or his/her designate in person or by telephone at the conclusion of the burning.

2.3 Regulations Re: Open Air Burning - Rural Area

The following regulations shall apply with respect to open air burnings in the rural areas.

- a) open air burnings may be conducted between the hours of 8:00 a.m. and 6:00 p.m. only.
- b) fire must be limited to the burning of dry, untreated wood. *Under no*

circumstances are household waste, toxic waste, leaves, grass, asphalt shingles, construction materials, tires, rubber, plastic, styrofoam or insulation to be burned

- c) open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated.
- d) open air burnings are not permitted during rain, foggy weather or on smog alert days as declared by the Ministry of Environment of Ontario.
- e) an open air burning shall be confined to an area which is at least 150 feet (45 metres) from any building, highway, road, or a wooded area.
- f) steps must be taken to ensure that smoke caused by an open burn does not have a negative impact on the visibility of motorists using roads in the vicinity of the burn.

2.4 Notification to Extinguish

All persons conducting an open air burning in the rural area shall immediately extinguish the fire upon notification that in the Fire Chiefs opinion, the said fire presents a fire hazard, the 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.

2.5 Failure to Extinguish - Liable For Costs

Should any land owner or occupant fail to extinguish a prohibited open air burning in a rural area 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 cost incurred by the Municipality of Southwest Middlesex in its efforts to extinguish the fire.

ENFORCEMENT

3.1 Regulations - Offence

No person shall fail to comply with regulations as set out in this by-law and any person who contravenes this by-law is guilty of an offence and is liable for costs as set out in Schedule "B" attached to this by-law.

3.2 Default - Collection of Costs

The Municipality of Southwest Middlesex has the right to collect any unpaid costs associated with Section 2.5 and 3.1 of this by-law by action, in a like manner as municipal taxes, or the municipality may provide that the expense incurred, with interest, shall be payable in annual instalments not exceeding ten years.

Effective Date

This by-law comes into force on the date it was passed by Council.

Read a first and second time this 21st day of November 2001.




Mayor



Administrator/Clerk

Read a third time and finally adopted this 2nd day of January 2002..



Mayor



Administrator/Clerk

SCHEDULE "B"
BY-LAW NO. 75/2001

RECOVERY OF COSTS

PART II

Fire Protection and Prevention Act

ITEM	COLUMN 1 Short Form Wording	Column 2 Offence Creating Provision	Recovery of costs
1.	Recovery of Costs	1.4(j)	All costs incurred by the municipality to extinguish the fire. (i.e. firefighters actual costs and equipment at the MTO rate \$350.00 per piece of equipment attending fire)
2.	Failure to Extinguish	2.5	All costs incurred by the Municipality to extinguish the fire. (i.e. firefighters actual costs and equipment at the MTO rate \$350.00 per piece of equipment attending fire)
3.	Permit Special Events	1.4	\$20.00