

CITY OF ST. THOMAS

BY-LAW NO. 138 -2003

A By-law to provide regulations for the setting of open air burning and the prevention and spread of fire within the City of St. Thomas.

Whereas Sections 8 & 9, of the Municipal Act, 2001, provide the authority for municipalities to pass by-laws governing their affairs;

And Whereas it is Council's intent to prescribe for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting such open air fires and to make such other regulations for preventing fires and the spread of fires as is considered necessary;

And Whereas Section 2.6.3.4 of the Ontario Fire Code O.Reg.388/97 made under the Fire Protection and Prevention Act, S.O.1997,c.4, as amended, provides that "Open air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue."

Therefore the Council of the Corporation of the City of St. Thomas enacts as follows:-

Definitions

Approved means approved by the Chief Fire Official for the City of St. Thomas.

Chief Fire Official means the Fire Chief of the City of St. Thomas, or a member or members of the fire department designated by the Fire Chief.

Confined Fire means an open air fire, within a non-combustible perimeter, used for the purpose of cooking food on a grill, supervised at all times and limited in size.

Open Air Burning means an approved fire set or caused to be set in an open place, yard, field or area, which is not enclosed by a building or structure.

Nuisance means excessive smoke, smell, airborne sparks or embers that could cause public nuisances by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing on the enjoyment of the use of neighbouring properties and generating false alarms.

Permit to Burn means the permit issued by the Chief Fire Official granting permission to set an open air fire, and establishing the conditions under which the permit is granted. This includes special events.

Owner/Occupant means the registered owner or any person, firm or corporation having control over, or possession of any portion of the building or property.

1. No person shall set fire to, burn or cause or permit to be burned any brush, leaves or other combustible matter
 - a) in or on any of the streets, parks or public property of the City of St. Thomas, or
 - b) on any private property within thirty metres (100 feet) of any building.

except as defined in regulation 2.6.3.4. of the Ontario Fire Code.

2. In locations other than the prohibited locations mentioned in paragraph one above, no combustible matter of material shall be set fire to or burned out of doors without permission in writing first being obtained from the Fire Chief or his Designate from the Fire Department of the City of St. Thomas, and then only subject to such terms and condition as are stated in the permission.
3. Outdoor fireplaces, boilers, chimineas and other similar solid fuel flame producing products will contravene the Ontario Fire Code if they are operated within the City of St. Thomas and their use is prohibited. The Fire Department cannot interfere with the sale and purchase of these devices, but the Ontario Fire Code and the office of the Fire Marshall are clear on prohibiting their use within urban areas.
4. Notwithstanding any of the provisions of this by-law, if at any time in the opinion of the Fire Chief or his Designate, it is necessary for the prevention or spread of fire that any fire should be extinguished, the person responsible for, or in charge of, or on whose property the fire is located, shall forthwith extinguish the same on notice of the said Chief, or his Designate, to do so, or the Chief or his Designate may take such steps as he deems necessary forthwith to cause any such fire to be extinguished.
5. All open Air Burning shall comply with the provisions of the Environmental Protection Act, R.S.O. 1990, c.E.19, as amended and shall not create a nuisance. Any adverse effects that cause an environmental impact could result in an investigation by the Ministry of the Environment.
6. The City of St. Thomas Fire Department shall be exempt from the provisions of this by-law with respect to open air burnings set for the purpose of educating and training.
7. Open air burning during a strike, shall be subject to a permit and the following additional requirements:
 - a) only one drum shall be used at each location
 - b) fires to be confined to the drums
 - c) only dry wood product may be burned and must be kept a minimum of 1 metre away from barrel
 - d) drums must be kept 3 metres (10') from any building, vehicle or any other combustible material
 - e) the permit is only valid for the duration of the strike
8. Notwithstanding section 2.6.3.4 of the Ontario Fire Code, no person shall ignite or start a fire in a grill or barbecue for the purpose of cooking food on a balcony of any building containing two (2) or more dwelling units.
9. Confined Fire – A person may set or cause to be set a small, confined fire to be used to cook food on a grill or barbecue without a permit, between sunrise and 11 p.m. provided that:
 - a) The fire is not more than 61 cm (2 feet) by 61 cm. (2 feet) in size and not more than 61 cm (2 feet) in height
 - b) No material other than commercial charcoal, briquets or clean dry seasoned wood may be burned

- c) The fire is located at a distance of not less than five (5) metres from any building, structure, property line, tree, hedge, fence, roadway, or other combustible article.
 - d) The wind velocity is not greater than twenty-four (24) kph
 - e) The fire does not create a nuisance
 - f) A suitable means of extinguishment is available while the fire is burning
 - g) The fire shall be supervised by a competent adult while the fire is burning.
10. Any person in contravention of any of the provisions of this by-law shall have a fee imposed as per City of St. Thomas By-Law 183-2002 being a by-law to impose fees or charges with respect to Fire Department matters, or they may be charged under the Ontario Fire Code.
11. If any person fails to pay the fees set out above, within thirty (30) days, the amount of the fee may be recovered by the Corporation in like manner as municipal taxes in accordance with the Municipal Act.
12. This by-law shall be referred to as the Open Air Burning By-Law.
13. By-Law Number 60-56 be hereby repealed.

Read a First and Second time this 6th day of October, 2003

Read a Third time and finally passed this 6th day of October, 2003

Peter J. Leack, City Clerk

Mayor