



I, JACKIE TIEDEMAN, CLERK
FOR MUNICIPALITY OF NORTH MIDDLESEX
CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL DOCUMENT

Jackie Tiedeman

MUNICIPALITY OF NORTH MIDDLESEX

BY-LAW NUMBER 078 OF 2020

**BEING A BY-LAW TO REGULATE OPEN AIR BURNING WITHIN THE
MUNICIPALITY OF NORTH MIDDLESEX**

WHEREAS pursuant to the Municipal Act, 2001, S.O. 2001, c.25 as amended, Section 8 (1) and 9 provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 425 and 429 of the Municipal Act, 2001, S.O. 2001, c. 25, authorize a municipality to create offences and to establish fines for offences under by-laws;

AND WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, S.O. 1997, c.4, as amended provides authority to the Council of a municipality to pass by-laws to regulate fire prevention including the prevention of spreading fires, and regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 7.1 (3) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, as amended, provides that a by-law under this section may deal with different areas of the municipality differently;

AND WHEREAS Part 2 of the Ontario Fire Code, O. Reg. 213/07, 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, barbeque or spit or such burning takes place in an appliance that is in compliance with the Technical Standards and Safety Act, 2000, for outdoor use and is assembled and installed in accordance with the manufacturer's instructions;

AND WHEREAS Council considers excessive smoke, odour, airborne sparks or embers, and airborne particles of burnt materials to be or become or cause public nuisance 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;

NOW THEREFORE the Council of The Corporation of the Municipality of North Middlesex **ENACTS** as follows:

1.0 SHORT TITLE

The short title of this By-Law shall be **OPEN AIR BURNING BY-LAW**.

2.0 DEFINITIONS

- (a) "*Approved*" means approval to burn from the *Chief Fire Official*.
- (b) "*Burning Appliance*" means a C.S.A. approved device, designed or engineered to have a fire set within a contained area and is totally enclosed by various means of screening and/or other methods.
- (c) "*Burn Permit*" means approval to burn granted by the *Chief Fire Official* or their designate, based on the information provided by the *Person* or *Farmer* requesting the *Open Air Fire*.
- (d) "*Campsite*" means a site designated for camping purposes within a commercial trailer park or campground.
- (e) "*Chief Fire Official*" means the person appointed by the Municipality of North Middlesex to act as the Fire Chief or their appointed designate(s).
- (f) "*Competent Adult*" means any person 18 years of age or older who, in the opinion of those charged with the enforcement of this By-Law, is capable of exercising the required judgment and taking the necessary actions to comply with the requirements of this By-Law.
- (g) "*Demolish*" means the structure has been pulled down or knocked down and no longer resembles a building or structure.
- (h) "*Farmer*" means the owner or operator of an agricultural operation pursuant to the *Farming & Food Protection Act, R.S.O. 1998* and within an area zoned for agriculture in the Municipality of North Middlesex Zoning By-Law.
- (i) "*Farmland*" means land designated "agricultural" in the Municipality of North Middlesex Zoning By-Law.
- (j) "*Fire Ban*" means the *Chief Fire Official* prohibits any fires, either *Recreational Fires* or *Regular Agricultural Burning* to be started or to continue to burn.
- (k) "*Fire Department*" means the North Middlesex Fire Department or any Fire Department working in conjunction with the North Middlesex Fire Department under a Mutual Aid agreement

- (l) "*Municipality*" shall mean The Corporation of the Municipality of North Middlesex,
 - (m) "*Municipal Law Enforcement Officer*" means the *Municipal Law Enforcement Officer* of the Municipality of North Middlesex.
 - (n) "*Nuisance*" includes excessive smoke, smell, airborne sparks or embers that may irritate or disturb others, or that may reduce visibility on roads in the vicinity of the *Open Air Fire*;
 - (o) "*Open Air*" means any open place, yard, field, lot, part lot or construction area which is not enclosed by a building or structure.
 - (p) "*Open Air Fire*" means the burning or combustion of materials in the *Open Air*, producing heat or smoke, but shall not include any fire entirely contained in an apparatus certified for the purpose of cooking food with charcoal, propane or natural gas. *Open Air Fire* includes both *Recreational Fires* and *Regular Agricultural Burning*.
 - (q) "*Outdoor Fire Container*" means a non-combustible container used to hold a small fire, and includes, but is not limited to, chimeneas, metal tubs, fire pits, and outdoor brick fireplaces;
 - (r) "*Owner*" means the registered owner or any *Person*, firm or corporation having care and control or possession of any portion of a property.
 - (s) "*Person*" means an individual, business, a partnership or a corporation.
 - (t) "*Prohibited Material*" shall include, but is not limited to, materials such as automobile and truck bodies, tires, oil, plastics, drywall, grease, tar, paint, rags, plastics, wire, leaves, asphalt shingles, rubber, construction materials, pressure-treated wood, creosote-treated wood, demolition waste, insulation, animal organic waste, vegetable waste, food waste, biomedical waste, and flammable or combustible liquids or accelerants.
 - (u) "*Recreational Fire*" means a fire that burns within an area that is no larger than one (1) meter in diameter provided such fire is used for warmth or cooking food (camp fire) and is within a safe (one (1) meter) reasonable distance from combustible materials.
 - (v) "*Regular Agricultural Burning*" means brush, residues, stumps etc. which is normal and incidental for farming purposes but does not include residential structures or anything associated with the residential dwelling such as vegetation and outbuildings, household garbage, petroleum products, plastics, rubber, vegetable or animal waste or other materials that create excessive or toxic smoke or excessive odours.
 - (w) "*Residential Area*" includes properties where neighbours are located within a proximity likely to be affected by smoke or ash and includes, but is not limited to Parkhill, Ailsa Craig and all designated residential hamlets within the limits of the municipality
-

- (x) "*Smog Alert/Poor Air Quality Day*" means an alert issued by the Ministry of the Environment with respect to air quality anywhere within Middlesex County.
- (y) "*Tenant*" means the occupant having possession or person having control of a property or premises.
- (z) "*Wind Speed*" means the *wind speed* for The Municipality of North Middlesex or anywhere within Middlesex County as reported on the Environment Canada website.

3.0 **ADMINISTRATION**

- 3.1 The Fire Chief, their designate or the Municipal Law Enforcement Officer shall be responsible for the administration and enforcement of this By-Law.
- 3.2 The Fire Chief, their designate or the Municipal Law Enforcement Officer is hereby authorized to enter, at all reasonable times and upon any property in the Municipality, in order to ascertain whether the provisions of this By-Law are being obeyed.
- 3.3 Conforming to the requirements of this By-Law does not absolve the Person who is conducting an Open Air Burn of complying with other Provincial Statutes and applicable legislation.
- 3.4 Fires other than Recreational Fires and Regular Agricultural Burning shall not be permitted.

4.0 **GENERAL PROVISIONS**

- 4.1 No person shall set, permit to be set, maintain, or permit to be maintained, any *Open Air Burn*, unless that *Person* complies with the following provisions:
 - (a) have legal title to the property at which the *Open Air Burn* is occurring or the *Person* conducting the *Open Air Burn* has obtained the prior written consent of the *Person* having legal title to the property;
 - (b) not burn *Prohibited Materials*;
 - (c) have an effective extinguishing agent of sufficient size and with the capability of extinguishing the *Open Air Burn* immediately and completely;
 - (d) has a *Competent Adult* constantly supervising the *Open Air Burn* at all times;
 - (e) completely extinguish the *Open Air Burn* before the site is vacated;

- (f) ensure the *Wind Speed* does not exceed 15 km per hour during the Open Air Burn;
 - (g) not burn if a *Fire Ban* has been issued for the area the burn is to take place at;
 - (h) not allow fire to be spread to adjacent properties, causing fire damage;
 - (i) ensure the *Open Air Burn* does not create a *Nuisance* to adjacent *Persons*, properties or premises;
 - (j) not burn on *Smog Alert/Poor Air Quality Day's*;
 - (k) not allow smoke to decrease visibility across any roadways.
- 4.2 No person shall locate a fire less than One (1) meter from *Municipal* property, including roads, boulevards and sidewalks, unless otherwise *Approved*.

5.0 **RECREATIONAL FIRE**

- 5.1 No *Person* being the *Owner* or *Tenant* in possession of lands within the *Municipality* shall allow a fire to be set or burn in excess of One (1) meter in diameter on such lands.
- 5.2 A *Recreational Fire* does not require *Approval* but must;
- (a) Be conducted in an *Outdoor Fire Container* or a *Burning Appliance*;
 - (b) take place between the hours of 7:00 p.m. and 12:30 a.m.;
 - (c) when the recreational fire takes place at a *Campsite* located within a commercial trailer park or campground, be in compliance with all rules and regulations of the park owner, and the size conforms to the maximum size for *Recreational Fires* and the *Person* complies with Section 4.0 and 5.0 of this By-Law.

6.0 **REGULAR AGRICULTURAL BURNING**

- 6.1 *Regular Agricultural Burning* is permitted on *Farmlands* in all Agriculturally designated areas
-

- 6.2 Materials to be burned for *Regular Agricultural Burning* are to be as a result of normal farming practices at the site where the burn is to take place.
- 6.3 A *Farmer* or other *Person* conducting a *Regular Agricultural Burn* shall contact the *Chief Fire Official* to obtain a *Burn Permit* prior to conducting a *Regular Agricultural Burn*. Prior to acting on the *Burn Permit*, and upon completion of the burn, a *Farmer* or other *Person* shall contact the Fire dispatching centre. See Schedule "A"
- 6.4 No *Person* shall set fire to a farm structure prior to the structure being *Demolished* and any *Prohibited Material* being removed.
- 6.5 No person shall permit a fire to be located:
 - (a) within 15 meters of any building, structure or overhead wire.
 - (b) within 7.5 meters of any flammable vegetation or material.
- 6.6 No person shall set, permit to be set, maintain, or permit to be maintained any *Regular Agricultural Burning* from the time of sunset to the time of sunrise.

7.0 PROHIBITED FIRES

- 7.1 Fires within residential areas for the purposes of burning leaves are not permitted
- 7.2 Fires on *Farmlands* containing any *Prohibited Materials* are not permitted
- 7.3 Fires set to a residence or former residence, or portion thereof for the purpose of demolition

8.0 RESPONSIBILITY FOR ACTION

- 8.1 Every person who sets an *Open Air Burn* in the Municipality of North Middlesex shall be responsible and liable for any damage to property or injury to person resulting from said fire.
- 8.2 Any person who fails to comply with the provisions of this By-Law or fails to extinguish a fire once notification to do so has been given to them by the Fire Chief, their designate or *Municipal Law Enforcement Officer*, shall, in addition to any penalty provided herein, be liable to the *Municipality* for all

expenses incurred for the purposes of controlling and extinguishing any fire so set or left to burn as per By-Law 64 of 2017.

- 8.3 If the Fire Department is dispatched or attends for any reason, and it is determined that the *Open Air Burn* is being conducted in contravention of this By-Law, the Fire Department may extinguish the fire, and the *Owner, Tenant* or *Person* will be liable to the *Municipality* for all expenses incurred for the purposes of controlling and extinguishing any fire so set or left to burn as per By-Law 64 of 2017.

9.0 **ORDER TO STOP BURNING**

- 9.1 If the Fire Chief, their designate or *Municipal Law Enforcement Officer* is satisfied that this By-Law has been contravened, they may make an order requiring the person who contravened the By-Law, or who caused or permitted the contravention, or the *Owner* or *Tenant* of the land on which the contravention occurred, to stop burning. An order under this Part shall be known as an "Order to Stop Burning", and such an Order can require a *Person* not to conduct an *Open Air Burn*, either *Recreational Fire* or *Regular Agricultural Burning* for a certain period of time as may be prescribed in the order.
- 9.2 An "Order to Stop Burning" shall include:
- (a) the Municipal 911 address or other descriptive identifier of the property on which the contravention occurred;
 - (b) the date of the contravention;
 - (c) the contravention of the By-Law;
 - (d) the date by which there must be compliance with the order;
 - (e) the date on which the order expires;
 - (f) any other information the Fire Chief, their designate or *By-Law Enforcement Officer* feels is necessary.
- 9.3 The Order to Stop Burning may be served personally on the *Person* to whom it is directed or by regular mail to the last known address of that
-

Person, in which case it shall be deemed to have been given on the third day after it is mailed.

10.0 ORDER TO EXTINGUISH

- 10.1 If the Fire Chief, their designate or *By-Law Enforcement Officer* is satisfied that this By-Law has been contravened, they may issue an "Order to Extinguish" requiring the *Person* contravening the By-Law to immediately extinguish the fire.
- 10.2 The Order to Extinguish may be verbal and/or in written form
- 10.3 An Order to Extinguish shall include:
 - (a) the Municipal 911 address or other descriptive identifier of the property on which the fire is located;
 - (b) the date of the inspection;
 - (c) the contravention of the By-Law;
 - (d) that the fire is to be extinguished immediately;
 - (e) a notice that if the fire is not extinguished immediately, the *Municipality* may extinguish the fire at the expense of the *Owner* and at the cost as per Fees and Charges By-Law in effect at the time
- 10.4 The Order to Extinguish may be served personally on the *Person* to whom it is directed or the property *Owner*.
- 10.5 In the event that there is not a *Competent Adult* on site as required in Sections 4.1 (d) the Fire Department may extinguish the fire, the order will be sent by mail to the property *Owner*, however, the failure of the property *Owner* to have supervision on site does not negate the *Municipality's* right to extinguish the fire.

11.0 EXEMPTION

- 11.1 The *Fire Department* shall be exempt from the provisions listed in 6.5, 6.6 and 7.3 for the purposes of training and education

12.0 ENFORCEMENT

- 12.1 No person shall fail to comply with the requirements as set out in this regulation and any person who contravenes this regulation is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offences Act.
- 12.2 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
- 12.3 The Municipality has the right to collect any unpaid costs as authorized by this by-law by adding such charges to the tax roll where they may be collected in like manner as municipal taxes, all in accordance with section 326 of the Municipal Act

13.0 PENALTIES

- 13.1 The provisions of this by-law may be enforced pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990 c.P 33 as amended, and where any provision of this by-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty may also be prohibited from continuing or repeating the offence in accordance with the provisions of s.444 of the Municipal Act, S.O. 2001 , as amended
- 13.2 Every person who is guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, R.S.O 1990 c.P. 33 as amended, pay a set fine, and the Chief Judge of the Ontario Court, Provincial Division, shall be requested to establish set fines as set out in Schedule "B" to this by-law

14.0 REPEAL

- 14.1 Upon approval of the Short Form Wordings for this by-law by the Office of the Attorney General, By-law #43 of 2004 shall be hereby repealed.

15.0 VALIDITY AND SEVERABILITY

- 15.1 If any section or sections of this by-law or parts thereof are found by any court to be illegal or beyond the power of Council to enact, such sections or parts thereof shall be deemed to be severable and all other sections or
-

parts of this by-law shall be deemed to be separate and independent there from and continue to in full force and effect unless and until similarly found and this by-law shall be enacted as such.

16.0 SHORT TITLE

16.1 The short title of this By-law is "Open Air Burn" By-law

17.0 ENACTMENT

17.1 This by-law shall come into force and take effect immediately upon the final passing thereof

Read a first and second time this 21ST day of October 2020

Read a third time and finally passed this 21st day of October 2020



MAYOR



CLERK

Municipality of North Middlesex
By-law No. 078 of 2020: Open Air Burning By law
Schedule A

Fire Dispatch – 519-245-1300

Chief Fire Official – 519-494-6001

Municipality of North Middlesex
Schedule B
PART I Provincial Offences Act
By-Law 078 of 2020: Open Air Burning By-law
Offences under the *Provincial Offences Act*

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Failure to Burn without consent of property owner	Section 4.1.a	\$500.00
2	Burning Prohibited Materials	Section 4.1.b;7.2	\$750.00
3	Failure to have adequate extinguisher on site	Section 4.1 c	\$500.00
4	Failure to have competent adult supervising fire	Section 4.1d	\$500.00
5	Failure to extinguish Fire	Section 4.1 e	\$500.00
6.	Failure to monitor wind speed	Section 4.1 f	\$500.00
7.	Failure to obey fire ban	Section 4.1 g	\$750.00
8.	Failure to properly contain fire	Section 4.1 h	\$500.00
9.	Create Nuisance with fire to adjacent neighbours	Section 4.1 i	\$500.00
10.	Burning during Smog Alert/Poor Air Quality	Section 4.1 j	\$500.00
11.	Allow smoke to decrease visibility across any roadway	Section 4.1 k	\$500.00
12.	Burning within 1 metre of municipal property	4.2	\$500.00
13	Allow a burn in excess of 1 metre is diameter	5.1	\$500.00
14.	Failure to Obtain Permit to Burn	6.4	\$500.00
15.	Failure to demolish structure and remove prohibited materials before burning	6.5, 7.3	\$500.00
16.	Burning Leaves in Residential Area	7.1	\$250.00

NOTE: the penalty provision for the offences indicated above is Section 13 of By-law No. 078 of 2020, a certified copy of which has been filed.

Municipality of North Middlesex
By-law No. 078 of 2020: Open Air Burning By-law
Schedule "C"

North Middlesex Fire Department
Notification of Open Air Burn

Permit #: 2020-xxx (Name)

Address:

Name:

Contact Number:

Burn start date:

Burn end date:

Fire Area: Ailsa Craig or Parkhill

Content of pile:

Pile size:

Means of extinguishment:

By-Law #xxx of 2020

- Burn only during daylight hours
- Cannot cause smoke or fire damage to any property
- Cannot decrease visibility of roadways
- Cannot burn in rain
- No petroleum products, plastics or rubber
- Must be 15m from any building, structure or overhead wire
- Flammable vegetation and material must be cleared back a min. of 7.5m
- Must have constant competent supervision

Will this fire be extinguished before sunset?

Applicant must notify Fire Dispatch prior to burning and at conclusion of burning by phoning 519-245-1300 or 1-844-220-1300.



January 15, 2021

Jackie Tiedeman
Municipality of North Middlesex
229 Parkhill Main Street, PO Box 9
Parkhill, ON N0M 2K0

Dear Ms. Tiedeman:

Re: Set Fines - Provincial Offences Act - Part I
By-law Number 078 of 2020, Municipality of North Middlesex

Enclosed herewith is an original Order, and an original schedule of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Offices Court in London together with a copy of the By-Law.

Yours truly,

A handwritten signature in blue ink, appearing to read 'J. LeRoy'.

Jeanine E. LeRoy
Regional Senior Justice
West Region
encl.
/mg

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 078 of 2020, of the Municipality of North Middlesex, attached hereto are the set fines for those offences. This Order is to take effect January 15, 2021.

Dated at London this 15th day of January 2021.



Jeanine E. LeRoy
Regional Senior Justice
West Region

Municipality of North Middlesex
Schedule B
PART I Provincial Offences Act
By-Law 078 of 2020: Open Air Burning By-law
Offences under the *Provincial Offences Act*

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Burn without consent of property owner	Section 4.1.a	\$500.00
2	Burning Prohibited Materials	Section 4.1.b	\$750.00
3	Failure to have adequate extinguisher on site	Section 4.1 c	\$500.00
4	Failure to have competent adult supervising fire	Section 4.1d	\$500.00
5	Failure to extinguish Fire	Section 4.1 e	\$500.00
6.	Failure to monitor wind speed	Section 4.1 f	\$500.00
7.	Failure to obey fire ban	Section 4.1 g	\$750.00
8.	Failure to properly contain fire	Section 4.1 h	\$500.00
9.	Create Nuisance with fire to adjacent neighbours	Section 4.1 i	\$500.00
10.	Burning during Smog Alert/Poor Air Quality	Section 4.1 j	\$500.00
11.	Allow smoke to decrease visibility across any roadway	Section 4.1 k	\$500.00
12.	Burning within 1 metre of municipal property	4.2	\$500.00
13	Allow a burn in excess of 1 metre in diameter	5.1	\$500.00
14.	Failure to Obtain Permit to Burn	6.4	\$500.00
15.	Failure to demolish structure and remove prohibited materials before burning	6.5	\$500.00
16.	Burning Leaves in Residential Area	7.1	\$250.00

NOTE: the penalty provision for the offences indicated above is Section 13 of By-law No. 078 of 2020, a certified copy of which has been filed, and s.61 of the Provincial Offences Act 1990, c.P. 33 as amended.