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**Date:** June 19, 2019  
**To:** Mayor and Council  
**Author:** Chuck Parsons  
**RE:** Open Air Burning Bylaw  
**Report No.:** FD-2019-01

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## **AIM**

To provide Council with information regarding proposed enhancements to the Open Air Burn Bylaw #69-2015.

## **BACKGROUND**

At the June 11<sup>th</sup> 2018 Regular Council meeting, the Administration presented to council enhancements to the current Open Air Burn Bylaw #69-2015. These proposed changes came through an annual review of the bylaw and from concerns brought forward by residents and staff regarding the following:

- The lack of ability for residential fires,
- Improved definition of agricultural burn,
- Communication,
- Updated list of types of materials prohibited to be burned,
- Enforcement.

Council provided the following motion:

“Council received the report regarding open air burning bylaw and requested that Administration conduct further follow up”.

## **DISCUSSION**

The Ontario Fire Code 2.4.4.4 does not permit open burning unless approved by the Chief Fire Official or for the sole purpose of cooking with specific conditions. The approval of an

open air burn by the Chief Fire Official is guided by the contents of the Open Air Burning bylaw (currently Bylaw #69-2015).

To assist in gathering a greater perspective regarding the residents' concerns the department used an online survey, maintained phone records regarding inquiries and monitored social media. Local municipal Open Air Burn bylaws were also reviewed for similarities.

The following is a list of enhancements to the bylaw:

## **Recreational Fires**

### *Current Bylaw*

Upon review of the current bylaw it was discovered that the current bylaw does not have a provision for recreational backyard fires. Currently under the Fire Code in Section 2.4.4.4 only permits the following:

- (1) Open-air burning shall not take place unless
  - (a) it has been approved, or
  - (b) the open-air burning consists of a small, confined fire that is
    - (i) used to cook food on a grill, barbecue or spit,
    - (ii) commensurate with the type and quantity of food being cooked, and
    - (iii) supervised at all times.

However, the current bylaw or the Fire Code does not permit a backyard fire for the provision of enjoyment. It should be noted that administration received 50 inquiries for recreational fire permits and the requirements surrounding these fires.

### *Proposed Bylaw*

The proposed bylaw does include a provision for recreational fires under the campfire definition.

*Campfire - shall mean a Fire, having a maximum fuel volume of 1 metre x 1 metre x 1 metre height. (3 feet x 3 feet x 3 feet), that is set and maintained solely for the purposes of cooking food, providing warmth or recreational enjoyment and where;*

- i) The site of the fire is on non-combustible material,*
- ii) The fire is at least 3 metres (9.9 feet) from any flammable material,*
- iii) The space above the fire is at least 3 metres (9.9 feet) from vegetation,*
- iv) The fire is at least 4.75 metres (15 feet) from the property line,*
- v) The fire is at least 4.75 metres (15 feet) from a structure, and,*
- vi) The flame length does not exceed 1 metre (3.3 feet) in height and 1 metre (3.3 feet) in diameter.*

These fires can be used for cooking as well as recreational purposes. The conditions that are defined provide for safe fires that would not be a nuisance to neighbouring residents.

The location would be inspected by staff and public education provided to ensure that conditions are followed. An annual permit would be required but notification to dispatch would not be required to conduct the fire. The number of events would be unlimited over the life of the permit.

## **Public Comments**

When survey respondents answered this question, 86% were in support of recreational fires. With proper controls in place, which are addressed in the bylaw, these fires can safely be accomplished. These controls can be found under section 2 of the of proposed Bylaw 57-2019. These include controls such as; permitting, designation of location, types of material prohibited to be burned, special approvals for significant functions and cancellation of permits.

## **Agricultural Burns**

*The Farming and Food Production Protection Act, 1998* allows agricultural properties to burn as a normal farm practice. The definition is as follows:

1. (1) *“normal farm practice” means a practice that,*
  - (a) *is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances.*

Burning crop remnants and diseased orchards are considered proper and acceptable customs and standards.

### *Current Bylaw*

Agricultural properties may burn without permit any agricultural items produced on the farm. This is restricted to crop remnants. Persons conducting the agriculture burns are required to contact our dispatch centre and be in attendance at all times during the fire.

Persons calling to inform of an agricultural burn to our dispatch centre often believe they are getting permission to conduct a fire. In reality, they are only reporting that they are conducting a fire and dispatch has no knowledge if the caller is having a legitimate legal burn or what the regulations are surrounding the requirements.

It is noted that in the first quarter of 2019, only 4 of the 45 agricultural burns reported to the dispatch centre met the definition as an agricultural burn.

### *Proposed Bylaw*

The intent of the enhanced bylaw is to ensure that agricultural burns are controlled properly with safety measures in place and are environmentally responsible. The Town of Kingsville is currently the only municipality in the county that does not require a permit to burn agricultural products or waste.

The permit process for all fires makes permission clear to our dispatch centre when a resident contacts the centre about an agricultural/contractor fire. Through proper

inspection and communication with the property owner, dispatch is assured that articles being burned fall within the town's Open Air Burning bylaw. It reduces confusion with residents regarding the need for a permit and those who are fraudulently contacting dispatch using an agricultural burn for other means.

## **Communication**

### *Current bylaw*

When a burn permit is requested, education is provided by the inspecting officer which provides clarification of the Open Air Burning bylaw requirements and conditions and answers all resident's questions.

All agricultural burning reported to dispatch is forwarded to fire staff for analysis and if it falls outside of the current bylaw, the person responsible is contacted and educated on the permit procedures.

### *Proposed bylaw*

Education would be continued in the same manner related to the Open Air Burning bylaw but the requirements for permits for all fires eliminates the confusion to residents and ensures those that contact dispatch have been permitted to burn.

Definitions are clear and conditions are listed to ensure residents understand what actions are required.

## **Approved Items for Burning**

### *Current Bylaw*

The current bylaw does list a number of prohibited items for burning. This includes straw, leaves and grass clippings but the list does not include many environmentally sensitive materials.

There is no provision of a burning ban if conditions (i.e. drought) warrant a ban.

### *Proposed bylaw*

The list of items that are environmentally dangerous for burning is listed with the definitions and through the burn permit procedure, items would be evaluated for compliance. The need for this provision in the bylaw has been demonstrated numerous times during burn permit inspections.

The addition of a definition of a Burn Ban during hazardous conditions ensures that fire responses are reduced to out of control fires set during these times.

## **Enforcement**

### *Current bylaw*

Currently, The Ontario Provincial Police (OPP) are the enforcement agency for the Open Air Burn bylaw. Residents often call the fire department to report open air burning and are under the impression that fire services are the enforcement agency. It is extremely inefficient to have OPP as the sole enforcement agency as they do not have the expertise in fire related matters.

### *Proposed Bylaw*

For the purposes of the bylaw, senior fire staff would be added to enforce the Open Air Burn bylaw, in addition to the OPP. Senior fire services staff are deemed Provincial Offences Officers by the Fire Prevention and Protection Act and have the knowledge to enforce laws related to fire matters.

Emphasis has been placed on education during the whole process from informing the public of the procedure through to providing information on safe burning when the permit is issued. Enforcement of a monetary fine is only considered in extreme circumstances or repeat offenders.

### **Burn Permits**

When a municipality establishes a burning bylaw, the bylaw may be used to identify fire safety provisions that are conditions of approval, recognize the existence of a burn permit form, and describe associated costs for permits. It is important to note that, while the bylaw may be used to set out administrative procedures, provisions and requirements in the Fire Code relating to open air burning in proximity to buildings must still be met.

Alternatively, a municipality may use permits to facilitate the approval process for controlling open air burning in proximity to buildings without passing a bylaw. For instance, permits could be issued based on the conditions of approval stipulated in a fire department's operating procedures. Again, it should be noted that provisions and requirements in the Fire Code relating to open air burning in proximity to buildings must still be met.

Applications for open air burning permits are available currently online and by attending the South Fire Station during business hours. An inspection is conducted typically within one business day and permits are issued at the site for a specific period of time (which can be extended if conditions are not optimal for burning during the timeframe).

The cost to issue a permit would be reflected in the Fees Bylaw and approved by Council. Typical costs from surrounding municipalities is \$20 per permit. This cost is related to the staff costs for issuing the permit and entering it into the fire records management system (FirePro).

### **LINK TO STRATEGIC PLAN**

To promote a safe community.

### **FINANCIAL CONSIDERATIONS**

Administration is currently proposing an annual fee of \$20.00 per residence for the permit. However, we would recommend that these fees not be implemented until 2021 to provide the residents of Kingsville an opportunity to become familiarized with the process and to allow for the Fire Department to provide further public education forums.

## **CONSULTATIONS**

Jeff Dean, Deputy Chief  
Scott Moore, Fire Prevention Officer  
Local municipalities

## **RECOMMENDATION**

That council receive the report titled Open Air Burning Bylaw and;  
Adopt the implementing Bylaw 57-2019.

*Chuck Parsons*

Chuck Parsons, CMM III  
Fire Chief/C.E.M.C.

*Peggy Van Mierlo-West*

Peggy Van Mierlo-West, C.E.T.  
Chief Administrative Officer