

Open Air Burning Regulations

F-5 - Enacted June 11, 2001

**This by-law is printed under and by authority
of the Council of the City of Humber Bay, Ontario, Canada**

Disclaimer:

The following consolidation is an electronic reproduction made available for information only. It is not an official version of the by-law. The format may be different, and plans, pictures, other graphics or text may be missing or altered. The City of Humber Bay does not warrant the accuracy of this electronic version. This consolidation cannot be distributed or used for commercial purposes. It may be used for other purposes only if you repeat this disclaimer and the notice of copyright. Official versions of all by-laws can be obtained from the City Clerk's Department by calling (1-555)-661-4505.

Copyright 2001

Bill No. 251
2001

By-law No. F-5

A by-law to provide for the regulation of open air burning in the City of Humber Bay.

WHEREAS SECTION 210, paragraph 35 of the *Municipal Act*, provides that Council may 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 WHEREAS section 210, paragraph 49 of the *Municipal Act*, provides that Council may make such other regulations for preventing fires and the spread of fires as is considered necessary;

AND WHEREAS section 326 of the *Municipal Act* authorizes where a municipal council has the authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by 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 or council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding ten years;

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 or on behalf of it;

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.

THEREFORE the Municipal Council of The Corporation of the City of Humber Bay enacts as follows:

SHORT TITLE
OPEN AIR BURNING REGULATIONS BY-LAW

Part 1
DEFINITIONS AND ADMINISTRATION

1.1 Definitions

In this by-law:

Annexed area - defined

"annexed area" shall mean the lands that were annexed to the City of Humber Bay as of January 1, 1993, pursuant to the Humber Bay-Middlesex Act, 1992, excluding those lands demarcated on Maps "A" to "M", inclusive, of this by-law.

Barbeque - defined

"barbeque" shall mean a portable or fixed device including 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 designed for personal warmth, fire pits or camp fires.

City - defined

“City” shall mean The Corporation of the City of Humber Bay.

Fire Chief - defined

“Fire Chief” shall mean the Fire Chief and Director of Paramedic Services for the City of Humber Bay Fire Services and members of the City of Humber Bay Fire Services acting under the Fire Chief's direction.

Permit holder - defined

“permit holder” shall mean the person, organization, company or group that has been granted by the Fire Chief a permit under section 2.6 for a special event to hold an open air burning or has been granted a permit under section 2.5 for recreational burning, based on the results of an on-site inspection that allows for open burning on residential properties that do not meet the regulations of this by-law .

1.2 Administration

This by-law shall be administered by the Fire Chief.

1.3 Fire Services - Exempt

The City of Humber Bay Fire Services shall be exempt from the provisions of this by-law with respect to open air burnings set for the purposes of educating and training individuals.

Part 2 GENERAL PROVISIONS

2.1 Open air burning - Regulations

No person shall conduct an open air burning within the boundaries of the City of Humber Bay unless permission has been given by the Fire Chief.

2.2 Permission - Recreational Burning

With respect to Section 2.1 above, permission is granted by the Fire Chief for open air burnings that are contained within non combustible containers or pits specifically designed for open air burnings.

The following regulations shall apply with respect to open air burnings for recreational purposes:

- (a) open air burnings may be conducted between the hours of 4 PM and Midnight only.
- (b) no materials other than commercially produced charcoal, briquets or clean, dry seasoned wood may be burned.
- (c) open burnings shall be confined to non combustible containers or to a pit no larger than two (2) feet (61 centimetres) by two (2) feet (61 centimetres) in size.
- (d) Open burning shall be conducted in such a manner as to preclude the escape from the fire of combustible solids such as sparks and ash.
- (e) the dimensions of the fuel being burnt shall not be greater than the size of the container or fire pit and shall be totally confined within the container or pit at all times.
- (f) an open air burning shall be confined to a location that provides for a minimum distance of 4 metres in all directions from adjacent properties.
- (g) open air burnings shall be confined to an area that is a minimum of 3 metres from combustible structures or objects.
- (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 shall be attended, controlled and supervised at all times and shall be completely extinguished before the open air burn site is vacated.
- (j) open air burnings are not permitted when the wind speed exceeds 15 kilometres per hour or during rainy or foggy weather or at times when a smog alert has been declared. The appropriate Federal and/or Provincial Government agency shall be used as the source for this information.
- (k) the owner, occupant or permit holder must take steps to ensure that adjacent properties are protected and that the byproducts of open air burnings do not have a negative impact on persons, pets or the environment.

2.3 Exception - barbeques

Despite Section 2.1 above, permission is not required from the Fire Chief for the use of a barbeque to cook food. Barbeques being used to cook food shall be attended, controlled and supervised at all times.

2.4 Barbeques - approved fuels

The only approved fuels for use in barbeques are commercially produced charcoal, briquets or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

2.5 Permit - approval - non-compliance recreational burning

An owner or occupant may make application to the Fire Chief for a variance with respect to 2.2(c), 2.2(f) or 2.2(g). Based on the results of an on-site inspection, the Fire Chief may issue a permit for recreational burning to allow for open burning on residential properties that do not meet the regulations as stated in 2.2(c), 2.2(f) or 2.2(g) of this by-law. Should the circumstances under which the approval was given change, the permit will no longer be valid. The Fire Chief may attach such conditions as deemed appropriate to any permit granted for such open air burning.

2.6 Permit - special events

All persons seeking permission to hold a special event involving an open air burning that is not a recreational burning as per section 2.2 and does not employ the use of a barbeque shall apply to the Fire Chief for a permit to have an open fire at such event. Application shall be made at least one week prior to the proposed date of the event on a form supplied by the Fire Chief and be accompanied by the applicable fee as set out in Schedule "A" to this by-law. The Fire Chief may issue a permit to allow a special event to reoccur over an extended period of time. The Fire Chief may issue a permit for a special event to allow for open air burning from 10AM to Midnight. Registered not-for-profit charitable organizations may make application to the Fire Chief requesting a permit fee exemption and the Fire Chief may authorize an exemption.

2.7 Permit - considerations

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.

2.8 Permit- conditions of Fire Chief

The Fire Chief may attach such conditions as deemed appropriate to any permit granted for an open air burning at a special event.

2.9 Permit - refusal for residential land

The Fire Chief shall not 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.

2.10 Permission - refused or revoked - past contravention

The Fire Chief may revoke or refuse to grant permission or issue a permit for an open air burning or a special event if the proposed open air burning or special event would be in

contravention of this by-law; if the owner, occupant or permit holder has contravened the provisions of this by-law in the past or if the owner, occupant or permit holder 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.

2.11 Permission - fuel - prohibit

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 or other commercial fuels such as natural gas and propane gas that are produced specifically for the purpose of cooking.

2.12 Permission - withdrawal

The Fire Chief may withdraw a special event permit and/or stop an open air burning if, in the Fire Chief's opinion, the fire is causing a negative impact on the occupants of adjacent land, 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.

2.13 Permission - withdrawal - extinguish fire

Upon notification by the Fire Chief to extinguish an open air burning, the land owner, occupant or permit holder shall immediately extinguish the fire.

2.14 Failure to extinguish - liable for costs

Should the land owner, occupant or permit holder fail to immediately extinguish the fire upon notification from the Fire Chief, the land owner, occupant or permit holder may be held liable for any and all costs incurred by the City of Humber Bay Fire Services in its efforts to extinguish the fire.

2.15 Order to extinguish unapproved fires

When made aware of an unapproved open air burning, the Fire Chief shall order the land owner or occupant to immediately extinguish the fire.

2.16 Order - owner - occupant - extinguish fire

The owner or occupant of land on which an unapproved open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Chief.

2.17 Failure to extinguish unapproved fires - liable for costs

Should any land owner or occupant fail to extinguish an unapproved fire 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 costs incurred by the City of Humber Bay Fire Services in its efforts to extinguish the fire.

Part 3

SPECIAL REGULATIONS FOR ANNEXED AREA

3.1 Permission - brush burning - telephone

Notwithstanding Part 2 of this by-law, all persons proposing to conduct an open air burning of brush and dry seasoned wood in the annexed area as defined by this by-law, shall notify Humber Bay Fire Services' Communications Centre in person or by telephone before commencing such open air burning.

3.2 Notification at conclusion of burning - annexed area

All persons who have given notification pursuant to section 3.1 above, shall notify Humber Bay Fire Services' Communications Centre in person or by telephone at the conclusion of the burning.

3.3 Regulations re open air burning - annexed area

The following regulations shall apply with respect to open air burnings of brush and dry seasoned wood in the annexed area:

- (a) open air burnings may be conducted between the hours of 8:00 AM and 5:00 PM only.
- (b) no materials other than dry brush and dry seasoned wood may 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 rainy or foggy weather.
- (e) an open air burning shall be confined to an area which is at least 45 metres (150 feet) 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 the visibility of motorists using roads in the vicinity of the burn.

3.4 Notification to extinguish

All persons conducting an open air burning in the annexed area shall immediately extinguish the fire upon notification that in the Fire Chief's opinion, the said fire is having a negative impact on the occupants of adjacent land, 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.

3.5 Failure to extinguish - liable for costs

Section 2.14 of this by-law shall apply should any person fail to comply with the request of the Fire Chief in section 3.4 above.

Part 4 ENFORCEMENT/ENACTMENT

4.1 Regulations - offence

No person shall fail to comply with regulations as set out in this by-law.

4.2 Contravention - fine

Any person who contravenes this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

4.3 Continuation - repetition - prohibition by order

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.

4.4 Default - collection of costs

The City has the right to collect any unpaid costs associated with sections 2.14, 2.17 and 3.5 of this by-law by action, in a like manner as municipal taxes, or City Council may provide that the expense incurred, with interest, shall be payable in annual instalments not exceeding ten years.

4.5 Effective date

This by-law comes into force on the day it is passed by Council.

Passed in Open Council on June 11, 2001.

Anne Marie DeCicco
Mayor

Cathie L. Best
Deputy City Clerk

First Reading - June 11, 2001
Second Reading - June 11, 2001
Third Reading - June 11, 2001

SCHEDULE "A"

To By-law F-5

Special Event Open Burning Permit Fee

\$20.00