

TOWNSHIP OF BROOKE-ALVINSTON

BY-LAW No. 45 of 2006

A BY-LAW COVERING THE TOWNSHIP OF BROOKE-ALVINSTON
FIRE DEPARTMENT(S) OPEN AIR BURNING REGULATION

WHEREAS section 210 ,paragraph 35 of the *Municipal Act, R.S.O* 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 to 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 owners expense and the Township may recover the expense incurred in doing it by action or the same may be recovered in like manner as Township Taxes or council may provide that the expense incurred by it, with intrest,shall be payable by such person in annual installments 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 the behalf of it;

AND WHEREAS section 2.6.3.4 of the *Fire Protection and Prevention Act* provides for the prohibition of open burning unless approved or unless such open air burning consist of the use of barbecue to cook food, provided such devices contain a small contained fire which is supervised at all times.

THEREFORE the Township Council of the Township of Brooke-Alvinston enacts as Follows:

PART 1

DEFINITIONS AND ADMINISTRATION

1.1 DEFINITIONS

For the purposes of this Regulation:

APPLICANT – Shall mean the person,organization,company or group that makes application to the Fire Chief or By-law/Provincial Offenses Officer for permission to hold an open air burning and includes such persons who contact the Fire Chief or By-law /Provincial Offenses Officer with notification of an intention to hold an open burning of brush in the rural area.

BARBECUE – Appliances include a Hibachi, a permanent structure designed and intended solely for the cooking of food in the open air, but does not include devices predominately designed for personal warmth, fire pits or camp fires.

LARGE BRUSH PILES – Shall mean the piles of brush or trees pushed up from the clearing of land or drainage ditches in the rural areas of Brooke-Alvinston.

OPEN AIR BURNING – Shall mean the burning of any material, including without limiting the generality of the foregoing, wood, cardboard, brush or garden waste the flame is wholly contained and is, thereby open to the air.

OPEN BURNING DEVICE- Shall mean any commercially manufactured device for the purpose of containing a recreational fire.

RECREATIONAL BURNING – Shall mean the burning of material in a burning device specifically designed to contain a fire for the purpose of a “camp fire” and/or outdoor cooking of food.

TOWNSHIP – Shall mean the Corporation of Brooke/Alvinston

FIRE CHIEF – shall mean the Fire Chief for the Township of Brooke/Alvinston Fire department and members of the Fire Department operating under the direction of the Fire chief.

FIRE DEPARTMENT – Shall mean the Brooke/Alvinston Fire Department

POLICE – shall mean the Ontario Provincial Police (OPP)

BY-LAW / PROVINCIAL OFFENSES OFFICER – Shall mean anyone appointed by the Township of Brooke-Alvinston to do these duties.

ADULT – any person over the age of 16 years of age

PART 1 ADMINISTRATION

The Fire Chief and the Department and the By-law / Provincial Offenses Officer shall administrate this regulation

1.2 FIRE DEPARTMENT – PUBLIC WORKS - EXEMPT

The Brooke/Alvinston Fire Department shall be exempt from this regulation for the provisions of education and training purposes. Brooke-Alvinston Public Works Department(s) shall be exempt from this regulation for the purpose of carrying out the duties of the Department.

PART 2 GENERAL PROVISIONS

2.1 OPEN AIR BURNING – PROHIBITED – URBAN/RESIDENTIAL ZONES WITHOUT PERMISSION

No person shall conduct, or permit to be conducted an open air burn for fires, other than Recreational Burning, within the Urban Zones of the Township of Brooke / Alvinston unless the Fire Chief or By-law Officer has given permission hereunder.

2.2 No person shall conduct or permit open air Recreational Burning between the hours of 11:00pm and 7:00 am

2.3 No person shall conduct or permit open air Recreational Burning in an open burning devices or to a pit larger than 2 feet (61cm) by 2 feet (61cm) in size.

When in use, the open burning devices or pit shall be covered with heavy gage metal screen have mesh size no larger than ½ inch (13cm) and which is positioned in such a manner as to preclude the escape of combustible material including ash.

2.4 No person shall conduct or permit open air Recreational Burning in an open burning pit device having more than 6 inches (15 cm) of the containment area above grade with a total maximum depth of 10 inches (25 cm).

The device used for the containment area should be constructed so that combustion is enhanced and smoldering is eliminated.

2.5 No person shall conduct or permit open air Recreational Burning using materials other than commercially produced charcal, briquettes or clean, dry seasoned wood, not including pressure treated wood or creosote treated wood.

- 2.6 No person shall conduct or permit open air Recreational Burning using wood greater than the size of the device or fire pit. Burning materials shall be totally confined within the device and or pit at all times.
- 2.7 No person shall conduct or permit open air Recreational Burning in a location that that does not provide for the minimum distance of 9 feet (3 M) in all directions from adjacent properties.
- 2.8 No person shall conduct or permit open air Recreational Burning in an area that does not provide a minimum of 24 feet (8 M) from any combustible structure or objects.
- 2.9 No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on or in any public street, alley, road or other public ground.
- 2.10 No person shall kindle or maintain a fire upon the land of another without the permission of the owner or agent and or Fire Chief or By-law Officer.
- 2.11 No person shall throw down or drop any lighted match, cigar, cigarette or other burning substance in any combustible material or in close proximity thereto.
- 2.12 No person shall conduct or permit open air Recreational Burning without an effective extinguishing agent of sufficient size and with the capacity to immediately extinguish it.
- 2.13 No person shall conduct or permit open air Recreational Burning that is not attended, controlled and supervised by an adult (someone over the age of 16yrs of age) at all times who shall ensure the fire is completely extinguished before clearing the area.
- 2.14 No person shall conduct or permit open air Recreational Burnings when the wind exceeds 30 kilometers per hour or during rainy or foggy weather or at times when a smog alert has been declared by the Ministry of Environment For Ontario (Provincial) & or Canada (Federal).
- 2.15 No person shall conduct or permit open air Recreational Burning that are hazardous and have health concerns or hazards to adjacent persons or properties.
Should such a complaint be received by the Township Fire Dept, Ontario Provincial Police and or the By-law/Provincial Offenses Officer regarding public safety and welfare from fire and smoke hazards or health concerns. The Fire Dept, OPP and or By-law Officer will have the discretion to determine the compliance and his / her decision will be final.

2.15 EXCEPTIONS - BARBECUES

No person shall use a barbecue that it is placed on flammable material, is not supervised at all times, is not fueled with commercially produced charcoal or briquette or a flammable product commercially produced for the purpose of cooking such as natural gas or propane.

2.16 PERMIT - SPECIAL EVENTS – DEMOLITION CLEANUP – BRUSH BURNING

- a) Any person and or group may obtain a special permit for a function or event by contacting the Fire Chief of Brooke/Alvinston or a delegate of the Fire Dept.
- b) An application will be required to be filled out and information provided to the Fire dept to reference the event and the purpose of the open burning. Time frame of at least one week before the event in question.
- Prior to granting a permit the Fire Chief or designate will go over the location of the open burn event and make consideration as to health and safety matters.
 - The Fire Chief can refuse the permit if he feels that the open burn does not meet regulation and or is in the interest of public safety
 - The Fire Chief will not give permission to burn any non combustible materials or prohibited materials as outlined in this regulation ,section 2.2d

- The Fire Chief may attach any such conditions as deemed appropriate to any permit granted for an open air burn.
- There will be a fee of \$ 25.00 to receive a special events permit payable to the Township
- The applicant or person who receives the special permit could be held liable for any cost incurred by the Township due to Emergencies related to the Open Burning, or cost incurred if the applicant refuse to extinguish the fire upon notice from the Fire Chief or Fire Dept.
- The Fire Chief or designate may withdraw the permit and or stop the open burn if, in Fire Chief's or designates opinion the fire presents a fire hazard, smoke hazard or the weather has deteriorated and has become unfavorable for an open air burn.
- Upon withdraw of permission/permit from the Fire Chief the applicant shall extinguish the fire.

2.17 ORDER TO EXTINGUISH UNAPPROVED FIRES

- a) When made aware of prohibited open burning not authorized under this regulation, the Fire Chief or designate, OPP or By-law Officer shall order the land owner or occupant to immediately extinguish the fire.
- b) The land owner or occupant of the land on which a prohibited open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Chief or designate, OPP and or By-law Officer.
- c) Should the land owner or occupant of the land fail to extinguish the fire when ordered to do so by the Fire Dept, OPP or By-law Officer, the Fire Dept, OPP or By-law Officer may take action to have the fire extinguished. The person who owns the land or occupant of the land can be held liable for any costs incurred to extinguish the fire by the Brooke/Alvinston Fire Department.
- d) Failure of the owner and or occupier of land to obey any such orders as directed by the Fire Chief, Fire Dept., OPP and or the By-law Officer can result in affine under the Provincial Offenses Act.

PART 3 - SPECIAL REGULATIONS FOR RURAL AREAS AND DEVELOPMENT

3.1 OPEN BURNING PROHIBITED IN RURAL AREAS WITHOUT PERMISSION

No person shall conduct or permit to be conducted an open air burning in the rural areas for the purpose of Demolition Cleanup or Large Brush Piles without notifying the Township of Brooke/Alvinston and or Township of Brooke/Alvinston Fire Department and obtaining a permit in person or by telephone.

3.2 NOTIFICATION AT CONCLUSION OF BURNING – RURAL AREA

All persons who have given notification pursuant to section 3.1 above shall notify the Brooke/Alvinston Fire Department in person or by telephone at the conclusion of the burning.

3.3 REGULATIONS RE-OPEN AIR BURNING – RURAL AREA

The following regulations shall apply with respect to open air burnings in the rural areas of the Township of Brooke/Alvinston.

3.4 No person shall conduct or permit to be conducted open air burnings in rural areas between the hours sunset and sunrise.

3.5 No person shall conduct or permit to be conducted open air burning in rural areas containing Chemical Residue or Other Noxious Chemicals.

- 3.6 No person shall conduct or permit to be conducted open air burning in rural areas that is not attended, controlled and supervised by an adult at all times who shall insure the fire is completely extinguished before the burn site is vacated.
- 3.7 No person shall conduct or permit to be conducted open air burnings in rural areas during rainy, foggy weather or on smog alert days as declared by the ministry of Environment of Ontario or Canada.
- 3.8 No person shall conduct or permit to be conducted open air burnings in a rural area that are within 150 feet (45M) from any building, highway, road or wooded area
- 3.9 No person shall conduct or permit to be conducted open air burnings in a rural area from which the smoke caused by an open burn has a negative impact on the visibility of motorist using the roads in the vicinity of the burn.
- 3.10 No person shall conduct or permit to be conducted open air burnings in rural areas that are hazardous and/or have health concerns to adjacent persons or properties.
Steps must be taken to ensure and neighbors and or adjoining properties are not affected by smoke hazards as relating to health conditions of a person or persons in the vicinity of the burn.

3.11 NOTIFICATION TO EXTINGUISH

All persons conducting an open air burning in the rural area shall immediately extinguish the fire when ordered to do so by the Fire Chief or designate, OPP Officer, and or By-law Officer if in their opinion said fire presents a fire hazard. The fire is having a negative impact on persons using the road or Highway adjacent to the burn or these regulations are being contravened.

3.12 FAILURE TO EXTINGUISH – LIABLE FOR COSTS

No person shall fail to extinguish a prohibited open air burning in a rural area when ordered to do so by the Fire Chief or designate, OPP Officer and or By-law Officer.

Action may be taken 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 Township of Brooke/Alvinston and Brooke/Alvinston Fire Department in its efforts to extinguish the fire.

PART 4 ENFORCEMENT

4.1 REGULATIONS – OFFENSE

Every person shall comply with the requirements as set out in this by-law and any person who contravenes this by-law is, upon conviction, guilty of an offense and is liable to any penalty as provided in the Provincial Offenses Act.

4.2 CONTINUATION – REPETITION – PROHIBITED 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.

4.3 DEFAULT – COLLECTION OF COSTS

The Township of Brooke/Alvinston has the right to collect any unpaid costs as authorized by this regulation 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**.

4.4 ENFORCEMENT OFFICERS AND POWERS

The Township of Brooke/Alvinston for the purposes of enforcement of this by-law has appointed the following persons to do enforcement.

- Fire Chief of Brooke/Alvinston Fire Department
- Fire Department designates of the Brooke/Alvinston Fire Department
- Officers of the Ontario Provincial Police
- By-law/Provincial Offenses Officers appointed by the Township of Brooke/Alvinston
- Any person appointed by the Township of Brooke/Alvinston to enforce this regulation

4.5 INVESTIGATION

Anyone who is appointed for the purposes of enforcement can enter onto private property to determine if a violation of regulation is taking place and or to inspect to ensure a prohibited fire is not burning.

PART 5 REPEAL - ENACTMENT

5.1 HEADINGS

The headings in the body of this regulation form no part of the regulation but are inserted for convenience of reference.

5.2 SEVERABILITY

If any section or sections of this regulation 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 regulation shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found and this regulation shall be enacted as such.

5.3 SHORT TITLE

The short Title of this regulation is "OPEN BURNING REGULATION"; a schedule with set fines and offenses is attached as Appendix A

5.4 EFFECTIVE DATE

This regulation comes into force on the day it is passed by Township Council.

5.5 FINES

Short word titles for offenses can be found in Appendix "A"

- \$250.00 FINE SET

5.6 PERMITS

SPECIAL EVENTS PERMIT \$25.00 PLUS APPLICATION WITH CONTACT INFORMATION.

5.7 REPEAL - The following by-laws are hereby repealed

Alvinston By-law No. 9 of 1998
Brooke By-law No. 2 of 1995
Brooke By-law No. 19 of 1995
Brooke-Alvinston No. 21 of 2006

Read a first and second time this 23rd day of November, 2006

Donald McHugh
Mayor
Cathy Case
Clerk

Read a third time and finally passed this 11th day of January, 2007 CC

Donald McHugh
Mayor
Cathy Case
Clerk

CLERK'S CERTIFICATE

Certified a true copy of By-law No. 45 of 2006 passed by the Council of the Township of Brooke-Alvinston the 11th day of January 2007. CC

Cathy Case
Clerk

APPENDIX "A"
TOWNSHIP OF BROOKE-ALVINSTON
BY-LAW No. 45 of 2006
OPEN BURNING REGULATION
Part 1 Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Burning after 11 p.m. to 10 a.m.	2.2	\$250.00
2.	Improper Device & or Pit	2.3	\$250.00
3.	Fire Larger Than Regulation	2.4	\$250.00
4.	Burning of Non Regulation Materials	2.5	\$250.00
5.	Burning of Material Larger Than Device	2.6	\$250.00
6.	Burning To Close To Adjacent Property	2.7	\$250.00
7.	Burning To Close To Structure or Objects	2.8	\$250.00
8.	Burning On/In Unauthorized Area	2.9	\$250.00
9.	Having Fire Without Permission	2.10	\$250.00
10.	Discarding of a Fire Starting Device While Lit	2.11	\$250.00
11.	Extinguishing Agent or Device Not Available	2.12	\$250.00

12.	Open Burning Not Attended	2.13	\$250.00
13.	Burning In Violation of Ministry of Environment or Weather	2.14	\$250.00
14.	Burn creating Smoke Hazards & Health Concerns	2.15	\$250.00
15.	Rural Burning between sunset and sunrise	3.4	\$250.00
16.	Rural Burning materials containing noxious chemical residue	3.5	\$250.00
17.	Rural Burning Not Attended	3.6	\$250.00
18.	Rural Burning in violation of Ministry of Environment or weather	3.7	\$250.00
19.	Rural Burning to close to building, highway or wooded area	3.8	\$250.00
20.	Rural Burning - Smoke from burning impact visibility	3.9	\$250.00
21.	Rural Burning Smoke Hazards & Health Concerns	3.10	\$250.00

“NOTE: The penalty provision for the offences indicated above is section 4.1 of By-law No. 45 of 2006, a copy certified copy of which has been filed”.

ONTARIO COURT OF JUSTICE

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. 45 of 2006, of the Township of Brooke-Alvinston, attached hereto are the set fine for those offences. This Order is to take effect February 23, 2007.

Dated at London this 23rd day of February, 2007.



Alexander M. Graham
Regional Senior Justice
West Region

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BY-LAW No. 45 of 2006
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