

1.0 STATEMENT

This bylaw shall be known as the "Open-Air Burning Bylaw".

2.0 PURPOSE

This Bylaw is intended to promote public health, safety and protect the welfare of the inhabitants of the Town of Yarmouth from air pollution, nuisances and fire hazards associated with outdoor burning, while permitting burning in Outdoor Wood Burning Appliances when appropriate conditions are met.

3.0 DEFINITIONS

3.01 Adverse Effect includes:

- a. impairment of the quality of the natural environment for any use that can be made of it
- b. injury or damage to property or to plant or animal life
- c. harm or material discomfort to any person
- d. an adverse effect on the health of any person
- e. impairment of the safety of any person
- f. rendering any property or plant or animal life unfit for human use
- g. loss of enjoyment of normal use of property
- h. interference with the normal conduct of business
- i. nuisances including but not limited to excessive smoke, odour, dust, airborne sparks, embers or reduced visibility on roadways or airfields.

3.03 Air Quality Advisory is a public health warning issued through the media by Environment Canada or the Province of Nova Scotia during periods of deteriorated air quality due to smog or if standards for ozone or fine particulate matter are exceeded.

3.04.1 Assisted Living Facility means housing intended for both independent and semi-independent living in the form of either congregate housing, dwelling units, sleeping units, or any combination thereof, within which is provided for the exclusive use of the occupants, their families and guests, daily common meal preparation using commercial cooking facilities, dining area and laundry facilities. Assisted living housing may or may not accommodate health services such as nursing care, home support, rehabilitative and transportation services.

3.05 Clean Dry Wood means firewood and wood waste that has been allowed to dry. "Dry" means moisture content less than 20 per cent.

3.04 Fire Chief means the Fire Chief of the Yarmouth Fire Department or a person designated by the Fire Chief.

- 3.05 **Hospital** means a building or part of a building approved by the Minister in keeping with the Hospitals Act, R.S.N.S., 1967, Chapter 249 that is used for the treatment of persons afflicted with or suffering from sickness, disease or injury.
- 3.07.1 Medical Clinic** means a building or part of a building wherein a private practice offers consultation, diagnosis and treatment of patients by one or more legally qualified physicians, dentists, surgeons, optometrists, chiropodists, chiropractors, drugless practitioners, alternative medical practitioners or therapeutic practitioners, together with their qualified assistants and without limiting the generality of the foregoing, the building may include administrative offices, waiting rooms, treatment rooms, laboratories, pharmacies and dispensaries directly associated with the clinic, but shall not include accommodation for in-patient care or operating rooms for major surgery nor public or private hospital or a professional office of a single practitioner located in his residence.
- 3.06.1 Nursery** means a building or part of a building or other place, whether known as day nursery, kindergarten, play school, or by any other name which, for compensation or otherwise, receives four or more children under eighteen years of age for temporary care including overnight accommodation.
- 3.06.2 Nursing Home** means a building or place or part of a building or place in which accommodation is provided or is available to persons requiring or receiving skilled nursing care in accordance with Provincial requirements. The nursing home shall be licensed or approved by the Province. "Residents" for the purpose of this definition shall be defined as to exclude staff or visiting family.
- 3.06 Open Burning or Open-Air Burning** means any fire or burning practice that is conducted outside a building, but does not include the following:
- a. the operation of welding or similar equipment
 - b. the operation of a coal or wood-fired locomotive or boat
 - c. an appliance which is fueled by natural gas, propane, charcoal, briquettes, including but not limited to a manufactured or non-manufactured barbeque, fireplace or fire pit
 - d. burning of materials for fire suppression training, testing of firefighting equipment or law enforcement purposes.
- 3.07 Outdoor Wood Burning Appliance** means a: manufactured wood burning appliance designed to hold a small fire, not exceeding one metre (3.2 feet) in any direction, equipped **with** a spark arrestor screen with no opening larger than 9.7mm (3/8 inch) to prevent sparks from leaving the appliance, which may include site-built masonry fireplace, fire pit, chimenea, clay or metal fireplace, portable wood-burning devices used for outdoor recreation or heating, or other enclosed container used outdoors and not fuelled by natural gas or propane; but **does not include** pellet fuelled barbeques or industrial 'wood-waste' combustors..
- 3.08 Owner** means the person who owns the property on which an Outdoor Wood Burning Appliance is installed.

- 3.09 Sensitive Receptor** may include a Nursey, Hospital, Medical Clinic, Assisted Living Facility, Nursing Home, public school or college, environmentally sensitive zone, Tourist Establishment, or other place where smoke may have a greater risk to health or the environment.
- 3.10 Tourist Establishment** means a building or buildings which are used to accommodate the travelling public for gain or profit by supplying them with sleeping accommodation with or without meals, and shall include a guest house, tourist cabins, a motel, a hotel or an auto-court.
- 3.10 Waste** includes garbage or refuse materials from residential, commercial, agricultural, industrial, or institutional establishment.
- 3.11 Wood waste** means, tree trunks, tree branches, brush, or wood products that **do not contain**:
- a. chromated copper arsenate, ammoniacal copper arsenate, pentachlorophenol, creosote, pesticides, or paint
 - b. easily removable hardware, fittings and attachments, unless they are predominantly wood or cellulose
 - c. plywood or composite wood products containing varnish or glue
 - d. an upholstered article
 - e. an article to which a rigid surface treatment is affixed or adhered, unless the rigid surface treatment is predominantly wood or cellulose.

4.0 APPLICABILITY

This Bylaw applies to all outdoor open-air burning within the Town of Yarmouth except:

- a. Grilling or cooking using charcoal, wood pellets or propane in cooking or grilling appliances, including barbeques.
- b. Use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- c. Emergency safety/signaling flares or industrial flares used for the combustion of flammable gases.
- d. Burning of materials for law enforcement activities as authorized by the local authority or other law enforcement authority.
- e. Burning of explosive or dangerous material by police or other public safety organization for which there is no other safe means of disposal.

5.0 GENERAL PROHIBITION OF OPEN-AIR BURNING

- 5.01** Open-air burning is prohibited in the Town of Yarmouth unless the burning is specifically exempted in this bylaw.
- 5.02** Open-air burning in an Outdoor Wood Burning Appliance may be permitted in the Town of Yarmouth, in accordance with all of the following provisions:
- a. Every owner of an Outdoor Wood Burning Appliance shall obtain an annual fire permit from the Fire Chief prior to burning

- b. The Outdoor Wood Burning Appliance shall be located at least 4.6 meters(15 feet) from any nearby structure.
- c. The Outdoor Wood Burning Appliance shall not be located in a front yard, and shall be at least 4.6 meters(15 feet) from any property boundary line.
- d. The Outdoor Wood Burning Appliance shall be located at least 4.6 meters(15 feet) from any forest or dry vegetation.
- e. The Outdoor Wood Burning Appliance shall not be used to burn Waste
- f. The Outdoor Wood Burning Appliance shall burn only Clean Dry Wood
- g. The Outdoor Wood Burning Appliance shall not placed on wood decks, used on or in enclosed patio decks, or under overhangs.
- h. A spark arrestor screen shall be used at all times while burning in an Outdoor Wood Burning Appliance.
- i. The Outdoor Wood Burning Appliance’s manufacturer instructions are followed.

5.03 No person conducting open-air burning shall create an Adverse Effect.

5.04 Notwithstanding any of the provisions of this bylaw, if at any time in the opinion of the Fire Chief, it is necessary for the prevention of fire spreading or nuisance, 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 fire on notice of the Fire Chief to do so, or the Fire Chief may take such steps as he/she deems necessary to cause any such fire to be extinguished forthwith.

5.05 No open-air burning shall be undertaken during periods when Environment Canada or Nova Scotia Environment have issued an Air Quality Advisory applicable to the area, and no burning shall take place if it is foggy.

5.06 Daily Restrictions: The Fire Chief or Nova Scotia Lands and Forestry may declare a burn restriction such as a Fire Ban or No-Burn Day against outdoor burning when atmospheric conditions or local circumstances make such fires hazardous, including the discharge of fireworks. The public shall be notified daily, whether a burn restriction is in effect on the Town of Yarmouth website, and such other means as the Fire Chief may deem advisable.

5.08 Open-air burning must not be started any earlier than 2:00pm, or such other time as determined by the Fire Chief, and be extinguished by 12:00am (midnight).

5.09 No burning shall take place when wind speeds are **20km/h or higher**.

5.09 No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or body of water.

5.10 Open-air burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age to ensure that the fire is kept under control. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

5.11 Prior to leaving the site, the open-air burn shall be completely extinguished by soaking the material with water. Ashes from the open-air burn shall be cold prior to the site being vacated.

5.12 No person shall allow or permit a fire to spread beyond an approved Outdoor Wood Burning Appliance.

5.13 No property shall be permitted for more than one Outdoor Wood Burning Appliance

6.0 OPEN-AIR BURNING OF WASTE

6.1 Open-air burning of waste from residential, commercial, agricultural, or industrial establishment is prohibited in the Town of Yarmouth.

7.0 SENSITIVE RECEPTORS

Notwithstanding Open-Air Burning Requirements, open-air burning shall not be undertaken within *150 meters* from a Sensitive Receptor.

8.0 FIRE EXTINGUISHING

Open-Air fires shall forthwith be extinguished when atmospheric conditions cause any or all of the following:

- a. The possible spread of the fire beyond the Outdoor Wood Burning Appliance
- b. Any odour to such an extent or degree so as to cause discomfort to the persons in the immediate areas
- c. Excessive smoke
- d. A decrease in the visibility on any highway, roadway or airfield
- e. Any other adverse effect.

9.0 FIRE PERMITS, COMPLAINTS AND ENFORCEMENT

9.01 No person shall light or be in charge of an open air burning fire, or be the owner of a property on which an open air fire occurred, without first obtaining a permit issued by the *Fire Chief*

9.02 The fee for an annual fire permit shall be *\$50.00*.

9.03 Fire Permits may only be issued in the name of the property owner.

9.04 No more than one fire permit shall be granted per property.

9.05 A burning permit issued under this section shall require compliance with all applicable provisions of this *bylaw* and any additional special restrictions deemed necessary to protect public health and safety.

9.06 When weather conditions warrant, the Fire Chief may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open-air burning.

9.07 Any violation of the conditions of a burning permit shall be deemed a violation of the *Open Burning By-Law*. Any violation of this bylaw or the burning permit shall void the permit.

10.0 RESPONSE TO COMPLAINTS

10.01 The person responsible for an open-air burn shall make a reasonable effort to respond to local resident complaints received about smoke issues.

10.02 The person responsible for conducting an open-air burn shall extinguish the fire if it creates an adverse effect at any time.

10.03 If the *Town of Yarmouth* receives complaints about an open-air burn, a Municipal Bylaw Enforcement Officer or other Authority may enter the land to inspect and extinguish the fire.

11.0 INSPECTIONS AND ENFORCEMENT

11.01 A Bylaw Enforcement Officer, or other Local Authority, may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this bylaw or an Order to Discontinue Activity is being complied with.

11.02 The Bylaw Enforcement Officer or other Local Authority may order the owner to extinguish any open-air burn at any time and the owner shall extinguish the fire; or the Local Authority or his designate may take the necessary steps to do so.

12.0 LIABILITY

12.01 Any person who fails to comply with a permit issued hereunder or any other provision of this by-law shall be liable to a penalty of not less than two hundred and fifty dollars (\$250.00) and not more than ten thousand dollars (\$10,000).

12.02 In addition to any fine or imprisonment imposed, the Court or Judge may order the person convicted to pay all expenses incurred in correcting the contravention of the by-law or any damages associated with such contravention.

12.03 Where any person is in contravention of any provision of this by-law, the Fire Chief may direct in writing that the contravention be remedied in the manner and within the time specified.

12.04 Upon the failure of the person to comply with such notice, the Fire Chief may order the remedy, and recover the cost of such work from the property owner.

12.05 The Town's cost to remedy the contravention pursuant to any provision of the by-law shall constitute a lien against the property owner which shall be applied and enforced in the same manner as for rates and taxes under the Municipal Government Act.

Clerk's Annotation for Official Bylaw Book	
Date of Adoption:	
I certify that this 'Open-Air Burning Bylaw' was adopted by Council as indicated above.	
Town Clerk:	Date: