

TRIMED '2015' 05227-06

Town of Portugal Cove-St. Philip's

Open Air Fire Regulations, 2015

Pursuant to and by virtue of the powers conferred by Sections 414(1)(f) and 414(2)(ee) of the *Municipalities Act, 1999*, SNL 1999, c. M-24 as amended, the Town Council of the Town of Portugal Cove-St. Philip's enacts the following Open Air Fire Regulations.

1. TITLE

These Regulations may be cited as the "Town of Portugal Cove- St. Philip's Open Air Fire Regulations, 2015".

2. PURPOSE

These Regulations are enacted to increase fire prevention to protect the safety, health, welfare and property of the public within the Town of Portugal Cove-St. Philip's from open air fires that may spread. It also intends to reduce the likelihood of nuisance caused by the burning or spread of an open air fire.

3. INTERPRETATION

In these Regulations,

- A) "Act" shall mean the *Municipalities Act, 1999*, SNL 1999, c. M-24, as amended.
- B) "Artificial Fire Log" shall mean a manufactured wood based product intended to be a fuel substitute for natural untreated wood logs.
- C) "Barbecue" shall mean a form of fuel burning appliance intended to cook food and shall have a cover to fully enclose the fire unless it is designed, constructed, and used with a fuel that does not produce sparks or embers when burned. Shall include grills, "hibachis", smokers, camp stoves and other similar devices.
- D) "Chief" shall mean the Fire Chief of the Fire Department as defined by the Fire Chief Regulations 26/00 under the Act and appointed by council in accordance with s. 63(1)(e) of the Act or other person designated by the Fire Chief to support the requirements of these regulations.
- E) "Fire Barrel" shall mean a form of fully enclosed large capacity fuel burning appliance intended to burn natural untreated wood. The enclosure may have portions constructed of non-combustible screen to contain the fuel and

reduce the escape of sparks or embers from the enclosure. Typically constructed from recycled steel drums.

- F) **"Fire Department"** shall mean the Portugal Cove-St. Philip's Fire Department established in accordance with s.63(1)(e) of the Act.
- G) **"Fire Permit"** shall mean a permit to allow burning of an Open Air Fire.
- H) **"Fire Weather Index"** shall mean the weather conditions based qualitative risk rating for forest fires in the region assigned by the Department of Natural Resources.
- I) **"Fuel"** shall mean any combustible material burned to generate flames or incinerate.
- J) **"Fuel Burning Appliance"** shall mean a fixed or portable, non-combustible receptacle designed and manufactured or constructed to contain fire and the intended fuel.
- K) **"Gas Appliance"** shall mean a form of fuel burning appliance designed and certified by a recognized certifying body to burn gaseous fuel such as propane and methane. The appliance is not required to be fully enclosed.
- L) **"Incinerate"** shall mean to burn up completely; reduce to ashes.
- M) **"Natural Untreated Wood"** shall mean all forms of wood including roots, tree trunks, branches, twigs, bark, leaves and lumber that has not been painted, preserved with chemicals, glued or formed into an engineered product.
- N) **"Open Air Fire"** shall mean any fire that is caused, set, lit or otherwise ignited outside the confines of a building or structure. Fireworks displays are considered open air fires.
- O) **"Open Air Fireplace"** shall mean a form of fully enclosed fuel burning appliance designed to burn natural untreated wood, artificial fire logs, or pellets. The enclosure may have portions constructed of non-combustible screen to contain the fuel and reduce the escape of sparks or embers from the enclosure.
- P) **"Pellets"** shall mean a manufactured wood based product intended to be burned in specially designed fuel burning appliances.
- Q) **"Regulations"** shall mean the Town of Portugal Cove - St Philip's Open Air Fire Regulations, 2015.

- R) **"Suitably Equipped"** shall mean being in possession of tools or equipment, including without limitation, brooms, rakes, back tanks, shovels, hoses and an adequate water supply, which shall be used to contain, prevent the spread of, and/or extinguish a fire ignited in the open air.
- S) **"Town"** shall mean the Town of Portugal Cove - St Philip's as incorporated under the Act.

4. APPLICATION OF REGULATIONS

These Regulations shall apply to all areas of the Town and during the entire year.

5. FIRE PERMIT

- A) No person or persons shall cause, set, light or otherwise ignite an open air fire within the boundaries of the Town without first applying for and obtaining a permit from the Chief.
- B) Notwithstanding Section 5.A), a permit is not required:
 - (a) To burn in a fire barrel provided:
 - (i) All openings in the barrel enclosure including vent holes and screening shall be sized to prevent the passage of a 13mm diameter cylindrical rod;
 - (ii) The barrel is located on private property and kept at least 3.5 m from a property line and at least 15 m from the nearest woods, brush, building or combustible material;
 - (iii) The barrel rests on legs or supports and is placed on mineral soil or non-combustible material having a minimum surface area of 1.5 square metres;
 - (iv) The barrel enclosure completely contains the burning and incinerated fuel (ash);
 - (v) The barrel enclosure has a maximum volume of 208 L and maximum diameter of 610 mm;
 - (vi) Only fuel intended for use in the barrel is burned; and
 - (vii) The barrel ash is totally extinguished before being discarded on minerals soil at least 15 metres from any woods, brush, building or combustible material; or

(b) To burn in an open air fireplace provided:

- (i) All openings in the fireplace enclosure including screening shall be sized to prevent the passage of a 7 mm diameter cylindrical rod;**
- (ii) The fireplace is located at least 3.5 m from a property line, nearest woods, brush, building or combustible material;**
- (iii) The fireplace rests on legs or supports and is placed on mineral soil or non-combustible material having a minimum surface area of 1.5 square metres;**
- (iv) The enclosure completely contains the burning and incinerated fuel (ash);**
- (v) The fireplace enclosure shall hold a maximum of 0.050 cubic metres of fuel and have a maximum ground footprint area of 0.3 square metres; and**
- (vi) Only fuel for which the fireplace has been designed for is burned; or**

(c) To burn in a barbecue provided:

- (i) The barbecue is used as intended and specified by the manufacturer;**
- (ii) Only fuel for which the barbecue has been designed is burned; and**
- (iii) A barbecue that burns gaseous fuel is also considered a gas appliance and meets the requirements of such device set out in these regulations; or**

(d) To burn in a gas appliance provided:

- (i) The device is used as intended and in compliance with the manufacturer's product certification; or**

(e) To ignite or otherwise set off fireworks displays.

- C) Where a permit is not required under sections 5.B) this shall not relieve a person from the requirements set out in Section 6 of these Regulations as if they were a permit holder.**
- D) During the official forest fire season, as determined by the Department of Natural Resources, a permit to burn from that Department is required for lighting outdoor fires on forest land or within 300 m of forest land, all pursuant to the Forestry Act, RSNL 1990, c. F-23. This permit must be**

obtained first and presented to the chief when obtaining a fire permit for an open air fire of this type.

- E) In making a determination under Section 5.A), the Chief may take into consideration the following:
- (a) The number of permits issued on a particular day;
 - (b) The velocity of the wind;
 - (c) The general weather conditions prevalent;
 - (d) Whether or not the applicant is suitably equipped to ensure the fire is maintained under control;
 - (e) The proposed manner and method of burning;
 - (f) Whether the applicant owns or is the occupant of the land upon which the burning is intended to occur, or has the written consent, produced prior to the issuance of the permit, of the owner of the land, where the burning will occur;
 - (g) Whether the applicant is 19 years of age or older and ensures that at least one other person, of 19 years of age or older, suitably equipped to control the fire, will be present while the fire is burning or smoldering;
 - (h) The provincial fire index as declared by the Department of Natural Resources
 - (i) Fuel material being burned.
 - (j) Whether a permit to burn from the Department of Natural Resources is required or has been obtained.
 - (k) Any other factor the Chief determines relevant to safety.
- F) Where the Chief determines that the proposed burning would be a hazard to safety or where there is a failure to meet the requirements of these Regulations, the Chief shall refuse to issue a permit. Furthermore, where a hazard to safety has been created, the Fire Department may extinguish the fire and take any other actions necessary to eliminate the hazard, the costs of which may be recovered from the owner or occupier of the property on which the fire was ignited, as a civil debt, pursuant to sections 178 and 412 of the Act.

- G) The Chief may specify on the permit the hours of day and the number of days during which the permit shall be valid, and in so doing, may distinguish between permits issued for commercial or other uses.
- H) If the person attempting to obtain a permit is not the owner of the land on which the burning is intended to occur, then written consent of the owner of the land must be obtained before any permit is approved.
- I) The Chief may include in a permit those items and conditions that he or she considers appropriate for the permit being sought.
- J) A permit may, by oral or written notice be cancelled or suspended at any time by the Chief, and upon receiving notice of a cancellation or suspension, the permit holder shall immediately extinguish any fire caused, set, lit, or otherwise ignited under the permit.
- K) The fee for issuance of a permit shall be set out in the Town's current Tax Structure & Schedule of Fees.

6. DUTIES OF PERMIT HOLDER

- A) The permit holder who causes, sets, lights, or otherwise ignites an open air fire shall not leave the fire unattended and shall take every reasonable and reasonably foreseeable precaution to prevent the fire from spreading and shall not leave the fire unattended until it is completely extinguished.
- B) A permit holder shall not burn more than one pile of material at any given time.
- C) A permit holder shall not ignite any fire when the wind is blowing of sufficient velocity such that it may jeopardize the permit holder's ability to control the fire.
- D) The permit holder shall ensure that the method of burning and material burned is consistent with the information provided when the permit was issued.
- E) The Fire Department shall be immediately notified if the fire is or appears to be getting out of control by calling 911.
- F) No person or permit holder shall light, ignite, or start or allow or cause to be lighted, ignited or started, a fire of any kind whatsoever in the open air without being suitably equipped.
- G) The holder of the permit will not be permitted to burn any petroleum-based product, such as oil, rubber tires, plastic, shingles, electrical wire etc.

- H) The possession of a permit does not discharge the person to whom it is issued, from responsibility for any damage resulting from the open-air fire.
- I) A person to whom the permit is issued shall keep a copy of the permit on site where the burning is taking place for presentation when required.

7. PROHIBITED

- A) All open air fires with the exception of fires contained in a barbecue or gas appliance for intended purpose shall be prohibited whether or not a permit has been previously issued when either the Department of Natural Resources or the Town has initiated a fire ban within its jurisdiction; or
- B) In accordance with 7.A) the Chief as officer of the Town has the authority to initiate fire bans within the boundaries of the Town to prohibit open air fires when determined to be necessary. The Chief also has the authority to lift a Town fire ban when appropriate.
- C) Public notice in a format and manner acceptable to the Chief shall be issued upon the initiation and lifting of a Town fire ban.

8. CONTRAVENTION OF REGULATIONS

- A) Any person who neglects or fails to comply with or acts in contravention of these Regulations shall be guilty of an offense and shall be liable on Summary conviction to a penalty as provided for in Section 420 of the Act.
- B) Any person who ignites, or who appears to have the care and control of a fire ignited in contravention of these Regulations shall immediately extinguish the fire upon the order of the Chief, which order need not be in writing.

9. REPEAL OF PREVIOUS REGULATIONS


All previous Town of Portugal Cove – St. Philip's Regulations related to Open Air Fires are repealed by these Regulations.

10. COMPLIANCE WITH OTHER LEGISLATION

Nothing in these Regulations serves to exempt any person from obtaining any license, permission, permit, authority or approval required by any other Regulation of the Town or any Statute or Regulation of the Province of Newfoundland and Labrador. Where there is a conflict between a provision of this Regulation and a provision of another Regulation of the Town, the more restrictive provision shall prevail. Where there is a conflict between these Regulations and a provincial statute or regulation, the provincial law shall prevail.

11. MINISTERIAL APPROVAL

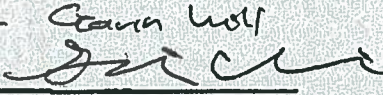
In accordance with s.414(1)(f) of the Municipalities Act, these Regulations have been reviewed and approved by the Minister of Municipal Affairs on the 6 day of April, 2016.

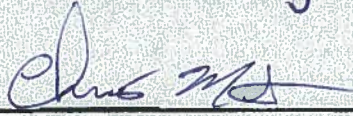

Hon. Eddie Joyce Minister
Department of Municipal Affairs

12. EFFECTIVE DATE

These Regulations have been adopted and came into effect on 3rd day of May, 2016 through resolution of council # 2016-122

In witness whereof the Seal of the Town of Portugal Cove - St Philip's has been affixed hereto and these Regulations have been signed by the Mayor and the Town Manager on behalf of Council on this 4th day of May, 2016.

Deputy Mayor Carin Wolf

For Moses Tucker
Mayor


Chris Milley
Town Manager

