

THE CORPORATION OF THE
TOWNSHIP OF BLANDFORD-BLENHEIM
BY-LAW NUMBER **2378-2023**

Being a By-law to provide for regulation and control for the setting of and prevention of fires.

WHEREAS Section 7.1 (1) (b) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 provides that Council may pass by-laws regulating the setting of open air fires, including establishing the times during which open-air fires may be set;

AND WHEREAS Section 7.1 (3) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, provides that a by-law under this section may deal with different areas of the municipality differently;

AND WHEREAS Section 7.1 (4) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, provides that a municipality may appoint a Chief Fire Official, or designate to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND PURSUANT to the provisions of the Municipal Act 2001;

NOW THEREFORE, the Council of the Corporation of Township of Blandford-Blenheim enacts as follows:

SECTION 1: DEFINITIONS

- 1.1 “*Agricultural Burn*” means any open-air burning specific to farm operations not including demolition. (see “special burn”)
- 1.2 “*Appropriate Weather Conditions*” shall mean that the wind speed does not exceed 15 kilometres per hour and that it is not raining nor foggy, nor is there a declared smog or weather quality alert. The appropriate Federal and/or Provincial Government agency shall be used as the source of this information.
- 1.3 “*Approved*” means approved by the Chief Fire Official, or designate or his/her designate
- 1.4 “*Ban or Burn Ban*” on open-air fires means a restriction or prohibition on open-air fires issued by the Chief Fire Official, or designate or his/her designate.
- 1.5 “*By-products*” shall include smoke and ash.
- 1.6 “*Chief Fire Official, or designate*” means the Assistant to the Fire Marshal who is the Municipal Chief Fire Official, or designate for Blandford-Blenheim, or a member or

members of the fire department appointed by the Municipal Chief Fire Official, or designate under Article 1.1.1.2. of Division C or a person appointed by the Fire Marshal under Article 1.1.1.1. of Division C.

- 1.7 “*Council*” shall mean the Corporation of Township of Blandford-Blenheim.
- 1.8 “*Controlled Burn*” is defined as a burn that has been authorized, verbally or in writing, by the Township of Blandford-Blenheim Chief Fire Official, or designate or designate and under the conditions set out in the permit.
- 1.9 “*Due care*” is defined as all necessary precautions to control and prevent the spread of fire.
- 1.10 “*Extinguished*” is defined as a fire, which has been quenched with water or all sources of heat have been eliminated by other means and the fire is verified by the permit holder or agent to be completely out.
- 1.11 “*Fire permit*” to be used interchangeably with burn permit, means a verbal or written conditional authorization issued and administered by the municipality to set or maintain an open-air fire, as per any restrictions and conditions contained in this by-law or as may be specified on the permit itself.
- 1.12 “*Necessary precautions*” is defined as sufficient equipment, machinery and/or manpower, which shall be provided to control, extinguish, and/or prevent the spread of fire.
- 1.13 “*Non-recreational burn*” refers to any fire set in open-air taking place in a rural area (outside designated settlement areas and rural clusters).
- 1.14 “*Open-air burn*” means any fire that is set in the open-air. In the Township of Blandford - Blenheim, there are three approved types of open-air burns: recreational; non-recreational/agricultural; and special.
- 1.15 “*Municipal Property*” shall include any property owner or operated by the Municipality, but does not include any property which is leased out by the Municipality.
- 1.16 “*Negative Impact*” means one or more of:
 - i. actual damage to property or to plant or animal life;
 - ii. harm or material discomfort to any person;
 - iii. impairment of the safety of any person
 - iv. loss of normal use of property; or
 - v. interference with normal conduct of business.
- 1.17 “*Permit*” shall mean permission and/or fire permit issued by the Chief Fire Official, or designate to set a fire in the open-air for a specified period.
- 1.18 “*Recreational open-air burn*” shall mean a small outdoor fire, such as a campfire, being no larger than 2 feet in diameter, and burning only of natural woods as a source of fuels within a pit or non-combustible container.

- 1.19 “*Special burn*” refer to specific, permitted burning related to structure demolition (removal), or any material part thereof, or any other burning which has been approved by the Chief Fire Official, or designate.
- 1.20 “*Open-air Burning*” shall mean burning or combustion of materials in any open place including yards, fields or construction areas which are not enclosed by a building or structure.
- 1.21 “*Permitted Campground*” means a “campground” or “recreation trailer park” as defined and permitted by the Blandford-Blenheim Zoning By-law.

SECTION 2: ADMINISTRATION

- 2.1 The administration of this by-law shall be the responsibility of the Chief Fire Official, or designate except with regard to enforcement which shall be the responsibility of the Chief Fire Official, or designate and any Provincial Offences Officer.
- 2.2 This by-law shall apply to all lands and premises within the Township of Blandford-Blenheim.
- 2.3 This By-law does not apply to the use of a listed fuel-fired appliance that is not used for the purposes of cooking. These appliances shall be used in accordance with manufacturer instruction.

EXEMPTIONS

- 2.4 As per Ontario Fire Code Regulation 2.4.4.4. open-air burning shall not take place unless it has been approved (i.e., permit has been issued), unless the open-air burning consists of a small, confined fire that is used to cook food on a grill, barbecue or spit, commensurate with the type and quantity of food being cooked, and supervised at all times. It is not the intent of this By-law to prohibit the use of fire for legitimate cooking or personal warmth, provided it conforms to the requirements outlined above and in section 3 of this By-law.

SECTION 3: GENERAL PROVISIONS

- 3.1 From and after the passing of this By-law, no person, either directly or through agents, servants or workmen, shall set fire to burn or cause or permit to be burned in the open-air within the Township of Blandford-Blenheim any material or building or structure whether standing or demolished or any part thereof subject only to the exceptions herein.
- 3.2 Open-Air Burning for recreational purposes, except at a public event, is deemed to be approved by the Chief Fire Official, or designate if:
- a) The fire is contained in a Fire Pit which is no more than one square metre in area;
 - b) The fire is at least 15 metres from any building, structure, hedge, fence, vehicular roadway of any kind or nature, overhead wiring or any property line, unless otherwise approved by the Chief Fire Official, or designate or within a site of a permitted campground;

- c) The fire is at least 5 metres from any object or material with potential to ignite;
- d) The perimeter of the fire does not exceed the size of the Fire Pit;
- e) The fire is attended, controlled and supervised at all times;
- f) steps are taken to ensure that smoke caused by the fire does not have an adverse affect on the visibility of motorists using roads in the vicinity of the burn;
- g) The owner or occupant takes steps to ensure that adjacent properties are protected and that the by-products of the fire do not have a negative impact on persons, pets or the environment;
- h) The fire is not occurring on any road allowance or Municipal Property without written permission of the Municipality;
- i) An effective extinguishing agent of sufficient size and with the capability of extinguishing the fire is immediately available for use;
- j) The fire is conducted in such a manner as to preclude the escape of fire or the escape of combustible solids such as sparks and ash from the fire;
- k) The fire is burned in appropriate weather conditions;
- l) The only materials being burned are those listed in Schedule 'A,' forming part of this by-law; and
- m) The fire is completely extinguished before the site is vacated.

3.3 Open-Air Burning – Non-Recreational and Agricultural Burns:

- (a) No person shall conduct a Non-Recreational and/or Agricultural open-air burn within the boundaries of Township of Blandford-Blenheim unless permission has been granted by the Chief Fire Official, or designate.
- (b) Every person shall comply with the following regulations which apply to open-air burnings:
 - i. The fire is located on land designated for residential or agricultural use in the Municipal zoning by-law;
 - ii. The fire is conducted between sunrise and sunset;
 - iii. only materials as set out in Schedule 'B', forming part of this by-law, are burned;
 - iv. The fire does not cover a ground area exceeding 9 square metres;
 - v. The fire must be always supervised, not left unattended and extinguishment must be confirmed before leaving the area;
 - vi. No burning of petroleum-based products or synthetic materials will be permitted;
 - vii. No burning of brush or wood products generated from off-site locations, all materials must originate on the landowner's property;
 - viii. Burns shall be located such that a minimum of 15 meters of separation to property lines, or structures is maintained; and
 - ix. The fire is confined to an area at least 5 metres from any object or material with potential to ignite.

3.4 Open-Air Burning – Special Burns:

- a) No person shall conduct a special open-air burn within the boundaries of Township of Blandford-Blenheim unless permission has been granted by the Chief Fire Official, or designate in the form of a fire permit.

- b) Special burn permits may be issued for open-air burning that does not meet the criteria for recreational, non-recreational or agricultural open-air burn permits (i.e., demolition of structures, agricultural buildings or accessory structures). The Chief Fire Official, or designate has the right to approve or deny all special open-air burn permit applications.
 - c) Every person shall comply with the following regulations which apply to special open-air burnings:
 - i. Special burns are only permitted in rural areas, and not permitted in settlement areas or rural clusters, unless approved by the Chief Fire Official, or designate;
 - ii. Open-air burning is only permitted with an activated special open-air burning permit. No person shall have a special open-air burn prior to a site visit by the Chief Fire Official, or designate or designate;
 - iii. The Chief Fire Official, or designate, or designate, will conduct a site visit to adequately assess whether or not a permit may be granted. Specific conditions of special burns will be noted by the Chief Fire Official, or designate, or designate, and must be met at the time of the burn;
 - iv. Burns shall be located at least fifteen (15) meters from any combustible structure, vegetation, or materials;
 - v. Special open-air burning must be completely extinguished before dark, unless otherwise authorized by the Chief Fire Official, or designate, in which case the burn will be supervised until it is completely extinguished;
 - vi. No burning of petroleum-based products or synthetic materials will be permitted;
 - vii. No burning of brush or wood products generated from off-site locations, all materials must originate on the landowner's property;
 - viii. The fire must always be supervised, not left abandoned, and extinguishment must be confirmed before leaving the area;
 - ix. The landowner must notify the Township at the phone number provided on the valid burn permit at least 30 minutes prior to the start of the burn, or Monday to Friday between 8am and 5pm;
 - x. The permit is issued to allow *Open-air Burning* between sunrise and sunset, for no more than three (3) consecutive days. An extension of time may be granted at the discretion of the Chief Fire Official, or designate;
 - xi. Controlled burning signs must be obtained from Township Staff, displayed as directed during all burning activities and returned when completed.
- 3.5 No one shall install, use, and maintain an unlicensed incineration device for the burning of garbage or other refuse in any class or classes of building. This includes the utilization of burn barrels, and/or any other metal drums which are taller than they are wide.
- 3.6 All open-air burns and fire permits will be suspended on days where a special weather statement has been issued by Environment Canada, or on days that the Township has issued a ban. The appropriate Federal and/or Provincial Government agency shall be used as the source for smog and weather-related information. The Chief Fire Official, or designate reserves the right to ban fires on any day.

SECTION 4. FIRE PERMIT

- 4.1 The following permit fees are outlined in the Blandford – Blenheim Fees and Services By-Law
- a) Non-Recreational and Agricultural Fire Permits – No charge
 - b) Recreational Fire Permits – No charge
 - c) Special Fire Permits – fee of \$50 for one three-day period per property, requires special approval by the Chief Fire Official, or designate.
- 4.2 The Fire Permit application is available at the Blandford-Blenheim Municipal Office. All applications shall be reviewed by the Chief Fire Official, or designate to ensure:
- a) That no provincial enactment, law, or regulation shall be infringed by the setting of such fire;
 - b) That the fee for such permit, if any, be paid by the applicant, and the amount of such fee shall be set by Council, may be amended from time to time as deemed necessary by Council. Fees will be listed in the Township’s Rates and Fees By-law;
 - c) Non-recreational, agricultural or special burns shall not be set on any street, parks, private or public property that in the opinion of the Chief Fire Official, or designate or designate is deemed to be within a designated settlement area or rural cluster. Recreational burning may be permitted in rural areas with a valid recreational open-air burn permit. Open-air burns in settlement areas or rural clusters may be permitted with a valid recreational burn permit only;
 - d) Every person setting a fire herein permitted shall exercise such due care and take such necessary precaution as may be required to avoid endangering persons or property in the vicinity thereof, and shall remain in constant attendance at such fire until the same is extinguished, and shall take precautions and follow such directions as may be set by the Chief Fire Official, or designate whether before, during, or after setting such fire;
 - e) All conditions and special conditions listed on the Township of Blandford-Blenheim Fire Permit shall be strictly adhered to or the Fire Permit shall be revoked.
- 4.3 Prior to granting a permit to conduct *Open-air Burning*, the *Chief Fire Official, or designate* may give consideration to:
- a) the results of an on-site inspection;
 - b) the size of the proposed fire;
 - c) the safety measures proposed;
 - d) the supervision arrangements proposed;
 - e) the time of year and the time of day;
 - f) the type of special event;
 - g) the materials to be burned;
 - h) the anticipated weather conditions; and
 - i) any other relevant considerations.
- 4.4 The *Chief Fire Official, or designate* may attach such conditions as deemed appropriate to any permit granted for *Open-air Burning*.

SECTION 5: ORDER TO DISCONTINUE ACTIVITY, EXTINGUISH and PROHIBIT

- 5.1 If it is found that there is a violation to the general provisions (see Section 3) of this By-law, the owner, occupant, or permit holder shall immediately discontinue the activity or extinguish a Non-Recreational/Agricultural/Special Open-Air Burn or a Recreational Open-Air Burn if directed or ordered to do so by the Chief Fire Official, or designate.
- 5.2 The Chief Fire Official, or designate may issue an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn. No person shall disobey an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn.
- 5.2(1) An Order to Prohibit Open-Air Burn or Recreation Open-Air Burns shall set out:
- a) The municipal address of the property on which the contravention occurred;
 - b) The name of the property owner and/or occupant;
 - c) The date of the contravention;
 - d) The contravention of the By-law;
 - e) The date by which there must be compliance with the order; and
 - f) The date on which the order expires.
- 5.3 If an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn is issued, the Chief Fire Official, or designate may instruct the Township of Blandford - Blenheim to recover amounts and expenses incurred in carrying out an Order, or expenses incurred to remove or reduce an immediate threat to life on the land or premises as set out in the Fire Protection and Prevention Act, 1997.
- 5.4 Every person who fails to comply with an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn is guilty of an offence and on conviction is liable to a fine set out in the Fire Protection and Prevention Act, 1997. The imposition or payment of the fine does not relieve the person from complying with the order.
- 5.5 Any person who removes a copy of an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn, or of a noticed posted without the approval of the Fire Marshal, an assistant to the Fire Marshal, or a Chief Fire Official, or designate, is guilty of an offense and on conviction is liable as per the Fire Protection and Prevention Act, 1997.

SECTION 6: REMEDIAL COSTS

- 6.1 Should a person default in complying with the provisions of this By-law, with an Order to Discontinue Activity and/or an Order to Extinguish, the fire may be extinguished at the person's expense as per the Township's Fees and Charges By-law, as amended from time to time at the discretion of the Chief Fire Official, or designate.
- 6.2 Nothing in this schedule of fees and charges shall be construed as limiting the rights of the Township of Blandford-Blenheim to seek restitution for other direct or consequential damages or costs incurred beyond those listed.

- 6.3 The Township may enter on land for the purpose of extinguishing a fire under subsection 6.1. and under powers of entry as per the Fire Protection and Prevention Act, 1997. Subsection 13(1)(a).
- 6.4 The power of entry under this Part shall be exercised by the Chief Fire Official, or designate, as defined in this By-law. The person exercising the power of entry must, on request, display or produce proper identification. The person exercising the power of entry may be accompanied by a person under his or her direction.
- 6.5 Should any land owner or occupant fail to extinguish a fire when ordered to do so by the Chief Fire Official, or designate, the Chief Fire Official, or designate 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 Blandford-Blenheim Fire Services in its efforts to extinguish the fire.
- 6.6 In the event that the owner or owners of lands and premises fail to reimburse the Township for the costs of control, suppression, and extinguishment of any fire as set forth above, the amount of such costs shall be added to the tax roll for the property upon which the fire had occurred and thereafter collected in the same manner as municipal taxes.

SECTION 7: INSPECTIONS AND INSPECTION FEE

- 7.1 The Chief Fire Official, or designate may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this By-law, or an Order to Prohibit an Open-Air Burn is being complied with.
- 7.2 Where the Chief Fire Official, or designate determines that an open-air burning is not in compliance with this By-law or with an Order to Prohibit an Open-Air Burn or Recreational Burn, a fee for inspecting the open-air burn may be imposed on the person contravening this By-law. Inspection and re-inspection fees and charges are set out by the Township's Fees and Charges By-law, as amended from time to time.
- 7.3 The fees imposed constitute a debt of the person to the Township of Blandford-Blenheim. The Township of Blandford – Blenheim may add fees to the tax roll and collect them in the same manner as municipal taxes on any property for which all the owners are responsible for paying the fees.

SECTION 8: ENFORCEMENT AND PENALTY

- 8.1 The authority to enforce the provisions of this by-law is hereby granted to the Chief Fire Official, or designate, Municipal Law Enforcement Officer appointed by the Township of Blandford-Blenheim and Officers of the Fire Services and Ontario Provincial Police.
- 8.2 Any person is guilty of an offence if he/she:
- a) Hinders, obstructs, or interferes with the Fire Marshal, an assistant to the Fire Marshal or Chief Fire Official, or designate in the exercise of his/her powers and duties;

- b) Prevents an inspector from entering land or premises under section 19/20 of the Fire Protection and Prevention Act, 1997, refuses to answer questions on matters relevant to the inspection, or provides the inspector with information, on matters relevant to the inspection, that the person knows, or ought reasonably to know, to be false or misleading;
- 8.3 Any person or corporation who contravenes any provision of this By-Law, is liable to a fine set as per the Township of Blandford-Blenheim Fees and Charges By-Law.
- 8.4 Any person or corporation who contravenes any provision of the Fire Protection and Prevention Act, 1997 is liable to a fine set by the Fire Protection and Prevention Act, 1997, as amended.
- 8.5 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 8.6 If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 8.7 If a contravention of this By-law results in the dispatch of Fire Department personnel and vehicles, and/or the use of a fire suppressant, the person or corporation and/or the property owner in control of the fire may be charged, at the discretion of the Chief Fire Official, or designate, for the cost of such response as set out by the Township's Fees and Charges By-law. Further to this that any such charge shall be subject to applicable taxes as a fee payable to the Municipality as per the Municipal Act, S.O. 2001, as amended, Chapter 25, Section 391.
- 8.7(1) The quantity and type of fire vehicles and personnel dispatched to respond for the purpose of extinguishing, controlling, or investigating any open-air fires are at the discretion of the Chief Fire Official, or designate
- 8.8 No person shall hinder or obstruct or attempt to hinder or obstruct the Chief Fire Official, or designate in the performance of his or her duties under this By-Law.

SECTION 9: SEVERABILITY

- 9.1 In the event of any conflict between any provision set forth in this By-law and any other regulation, the more restrictive provision shall apply.
- 9.2 If any section or portion thereof shall be declared by a court of competent jurisdictions to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of the Ordinance. The remainder of the Ordinance shall remain in full force and effect.

SECTION 10: LIABILITY

10.1 Permission to set such fire herein shall not be deemed to relieve the applicant from, nor impose upon the Municipality, any civil or criminal liability that may otherwise be incurred by reason of the setting of such fire.

SECTION 11: REPEAL AND ENACTMENT

11.1 This By-law shall come into force and effect of the day of its final passing thereof.

SECTION 12: SHORT TITLE

12.1 This by-law shall be referred to as the “Open-Air Burning By-law”

That the effective date of this By-law shall be the date of final passage thereof.

By-law READ a FIRST and SECOND time this 5th day of July, 2023.

By-law READ a THIRD time and ENACTED in Open Council this 5th day of July, 2023.

Mark Peterson, Mayor

Rodger Mordue, CAO/Clerk

Schedule “A” – Materials

- 1) Wood and wood by-products that have not been chemically treated, painted or stained.
- 2) Paper and paper products.

Schedule “B” – Materials

- 1) Wood and wood by-products that have not been chemically treated, painted or stained
- 2) Paper and paper products
- 3) Cardboard
- 4) Brush
- 5) Tree stumps
- 6) Hay, straw, and dry grass (non-baled)
- 7) Yard waste, such as twigs and leaves
- 8) Other combustible materials only with the specific approval from the Chief Fire Official, or designate.