

THE CORPORATION OF THE MUNICIPALITY OF SOUTH BRUCE

BY-LAW # 2015-22

**Being a By-law to Regulate Burning within the Corporation of the Municipality of South Bruce.**

**WHEREAS** Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

**AND WHEREAS** Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that powers shall be interpreted broadly so as to confer broad authority on municipalities to: (a) enable municipalities to govern their affairs as they consider appropriate and (b) enhance their ability to respond to municipal issues;

**AND WHEREAS** Subsection 11(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended permits the municipality to provide any service or things that the municipality considers necessary or desirable for the public;

**AND WHEREAS** Section 391 of the *Municipal Act, 2001*, S.O. 2001, c 25, as amended, authorizes a municipality to impose fees or charges on persons for services or activities provided or done on behalf of the municipality and for the use of the municipality's property, including property under its control;

**AND WHEREAS** SECTION 2.4.4.4 OF THE Ontario Fire Code states;

- (1) Open- air burning shall not take place unless
  - (a) it has been **approved**, or
  - (b) the open-air burning consists of a small, confined fire that is
    - (i) used to cook food on a grill, barbeque or spit
    - (ii) commensurate with the type and quantity of food being cooked, and
    - (iii) supervised at all times

**NOW THEREFORE** the Council of the Corporation of the Municipality of South Bruce enacts as follows:

**Definitions**

1. In this By-law:
  - 1.1 **"Approved"** means the property owner has applied for permission to burn, completed the application form, you have read or are going to read the Open Air Burning By-Law #2015-22, understand its contents and will comply with the previous of the said by-law;
  - 1.2 **"Approved Brush/Yard Waste"** means an open air burn not exceeding 24m<sup>3</sup> (6'x12'x12') that is set for the sole purpose of burning piled wood, brush or yard waste, excluding leaves
  - 1.3 **"Chief Fire Official"** means the Fire Chief of the Municipality of South Bruce or such employees of the Corporation of the Municipality of South Bruce who have been designated by the Fire Chief for the purposes of administration of this by-law;
  - 1.4 **"Corporation"** means the Municipality of South Bruce;
  - 1.5 **"Fire"** means the burning or combustion of materials in the open air, but shall not include any fire entirely contained in an apparatus designed, constructed or manufactured for the purpose of barbecuing food for consumption;
  - 1.6 **"Barbecue"** means appliances including hibachi, a permanent structure designed and intended solely for cooking food in the open air and other similar devices designed and intended solely for cooking food in the open air, but does include devices designed for personal warmth, fire pits or camp fires

- 1.7 **"Prohibited Material"** shall include, but not limited to, materials such as automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, leaves, asphalt singles, rubber, construction materials, insulation and flammable or combustible liquids or accelerants;
- 1.8 **"Recreational Fire"** means a contained fire that burns within an area that is no larger than 1 meter in diameter and height, provided such fire is used for warmth or cooking food;
- 1.9 **"Approved Burn Barrel"** means a fire set in a container designed for incineration purposes, constructed completely of non-combustible material and not larger than a 45 gallon (170) drum. There shall be a platform in the bottom of the container with air inlets below the fore to supply adequate combustion air to aid in a more complete and clean burn. Steel mesh with opening not exceeding 3/16 inch (5mm) shall be placed on the top and/or the exhaust point of the device to serve as a spark arrester, flames are not to exceed the top of the approved burn barrel. Burn barrels are not permitted within residential areas of the Municipality;
- 1.10 **"Burn Ban Level 1"** means burning is restricted to Camping Fires and Outdoor Fire
- 1.11 **"Total Burn Ban"** means a burning ban on all types of open air burning
- 1.12 **"Permit"** means one (1) permit per property with written authority provided by the Fire Chief or his/her designate

### **Prohibitions**

2. No person shall set a fire or allow a fire to burn except in accordance with the following provisions:
  - 2.1 No person shall set a fire or allow a fire to burn except in accordance with the provisions of this By-law and all applicable provincial, municipal and federal laws and regulations, including but not limited to the Ministry of Environment.
  - 2.2. With the exception of Recreational Fires or fires contained in a burn barrel, no person shall set a fire or allow a fire to burn in the open air without obtaining a permit from the Chief Fire Official.
  - 2.3 No person shall burn prohibited materials, including but not limited to the following, buildings, hay, straw, open fields, tires or any material restricted by the Ministry of Environment
  - 2.4 No person shall burn leaves.
  - 2.5 No person shall set or allow an uncontained fire to burn, such as a grass fire. Fires shall only be set or allowed to burn in a container, apparatus, or physical construction that is capable of controlling the spread of fire.
  - 2.6 Every person present at an approved open air burn shall ensure that an adequate means of extinguishing the fire is available at the fire site while the fire is burning; without limiting the generality of the foregoing, every permit holder shall ensure that the means of extinguishing the fire required in the terms of the permit is available at the fire site at all times while the fire is burning.
  - 2.7 No use of flammable or combustible liquids or accelerants of any kind.

## **Prohibited Locations**

- 3.0 No person shall set a fire or allow a fire to burn except in accordance with the following locational criteria:
- 3.1 No fire shall be set or allowed to burn in the front, side or rear yard of any commercial or industrial property.
  - 3.2 No fire shall be set or allowed to burn where said fire is less than sixty (60) meters, (100 ft.) from any building, structure, hedge, tree, fence, highway or vehicular right of way, overhead wire or combustible material of any kind.
  - 3.3 No fire other than a Recreational Fire shall be set or allowed to burn where said fire is less than fifteen (15) meters from any building, structure, hedge, tree, fence, highway or vehicular right of way, overhead wire or combustible material of any kind.
  - 3.4 No fire shall be set or allowed to burn on a public highway or land that is owned by the Corporation without a permit therefor.
  - 3.5 No fire shall be set or allowed to burn on any land or premise without the consent of the owner of such land or premise.
  - 3.6 No fire shall be set or allowed to burn on any land or premise where construction of a building or structure is ongoing.
  - 3.7 No fire other than a Recreational Fire shall be set to burn between sunset on the evening of any day and sunrise on the following day.
  - 3.8 No fire shall be set during a fire ban declared by the Chief Fire Official.
  - 3.9 No fire other than a Recreational Fire shall be set or allowed to burn within the boundaries of the Municipality of South Bruce except by a person who is actively farming land and who wishes to set or maintain a fire on farm lands for purposes which are normal and incidental to the farm use.

## 4.0 **General Provisions**

- 4.1 Notwithstanding the issuance of a Permit and with or without a Permit, no person shall set or allow a fire to burn when the direction or intensity of the wind may cause a nuisance or danger being:
- i) a decrease in visibility on any highway
  - ii) any odour or smoke to such an extent or degree so as to cause discomfort to persons, or hazards to health, cause loss of enjoyment or normal use of property in the immediate area
  - iii) a rapid spread of fire through grass to a bush area.
- 4.2 **Failure to Extinguish - liable for cost**  
Should the applicant fail to immediately extinguish the fire upon notification from the Fire Chief, District Chief or Officers, the applicant shall be held liable for any and all costs incurred by the Municipality of South Bruce Fire & Emergency Services in its efforts to extinguish the fire.

#### 4.3 **Order to extinguish unapproved fire(s)**

When made aware of an unapproved open air burning, the Fire Chief or his/her Designate, shall order the land owner or occupant to immediately extinguish the fire and the land owner or occupant, shall immediately comply with the order.

#### 5.0 **Issuance of Permit**

- 5.1 The Chief Fire Official or Designate(s) is hereby delegated authority to approve of the setting of fire in accordance with the provisions of this Bylaw, provided the property owner has registered their property with the Municipality and completed the application form attached hereto as schedule B. Fees are set by Council from time to time. Fee rates can be found in the Municipal Consolidated Fee By-Law as amended.

An initial burn permit and prescribed fee as found in the Municipality of South Bruce Consolidated Fee by-law as amended shall be registered by the property owner.

Further to the initial registration any subsequent burns requires the permit holder to advise the Chief Fire Official and/or designate of the desired burn and shall pay the additional fee as per the consolidated fee by-law as amended. Additional burns will be recorded and approved by the Chief Fire Official or designate(s).

- 5.2 Notwithstanding the provisions of this By-law in relation to the types of material that may be burned and the requirements for contained fires, any person who is actively farming land and who wishes to set or maintain a fire, without the use of a burn barrel, on farm lands for purposes which are normal and incidental to the farm use shall obtain a Permit in relation to the period proposed for the burning provided all other provisions of this by-law are satisfied and the Permit will require the applicant to notify the Chief Fire Official or Designate before setting the fire.
- 5.3 The Fire permit may be cancelled at any time by the Fire Chief or his designate, and immediately upon receiving notice of such cancellation the permitted shall extinguish any fire started under the permit.
- 5.4 The Fire Chief may refuse to grant a permit for open air burning if the proposed open air burning would be in contravention of this by-law, if the applicant has contravened the provisions of this by-law in the past or if the applicant has not complied with any conditions attached to the permit for the open air burning that may have been imposed by the Fire Chief on a previous occasion.

#### 6.0 **Penalty**

- 6.1 No person shall fail to comply with the regulations as set out in this by-law.
- 6.2 Every person who contravenes any provisions of this by-law is guilty of an offense and on conviction is liable to a fine as provided in the attached Schedule "A" and section 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33.
- 6.3 All persons who sets or allows a fire to burn without a Permit and, all persons obtaining the necessary permit and setting an open air fires shall be responsible and, those who are unable to control such fire, leading to the response of the Fire Department, shall be liable for the expenses of the Fire Department, including personnel, equipment and apparatus costs necessary to investigate, respond and extinguish the fire. Such costs shall be calculated in accordance with current fee structure established by the Ministry of Transportation Ontario (MTO).

(1) Per vehicle for the first hour – based on current MTO rates

- (2) Per vehicle per half hour thereafter – based on current MTO rates

Times will be calculated from the receipt of the alarm through to the time responding personnel and equipment are back in service.

6.4 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repletion of the offence by the person convicted, and such order shall be in the addition to any other penalty imposed on the person convicted.

6.5 The Municipality has the right to collect any unpaid costs associated with sections 4.2, and 6.3 of this by-law by action, in a like manner as municipal taxes or the Municipal Council may provide that the expenses incurred, with interest, shall be payable in annual installments not exceeding 10 years

7. All by-laws inconsistent with this by-law are hereby repealed.

8. That this by-law shall come into force and effect upon third and final reading thereof.

READ A FIRST AND SECOND TIME THIS 7<sup>th</sup> DAY OF April, 2015.

READ A THIRD TIME AND FINALLY PASSED AND SEALED THIS 7<sup>th</sup> DAY OF April, 2015

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Robert Buckle - MAYOR

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Leanne Martin, CAO/CLERK