

BY-LAW NUMBER 223-02

- of -

THE CORPORATION OF THE COUNTY OF BRANT

To Regulate Open Air Burning

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 an officer 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 WHEREAS Section 391 of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that despite any Act, a municipality and a local board may pass by-laws imposing fees or charges on any class of person, for services or activities provided or done by or on behalf of it or for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS as follows:

INTERPRETATION

1. Definitions

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 alert. The appropriate Federal and/or Provincial Government agency shall be used as the source of this information.

By-Products shall include smoke and ash.

Cooking Fires shall mean a small confined fire, supervised at all times, and used to cook food on a grill or barbeque.

Council shall mean the elected Council of the County of Brant.

County shall mean the Corporation of the County of Brant.

Fire Chief shall mean the person appointed as Chief Fire Official, by *County* by-law pursuant to the *Fire Protection and Prevention Act*, and his or her designate.

Fire Pit shall mean any space designed specifically for the purposes of holding campfire, which encloses the perimeter of a campfire with non-combustible materials, and may include a steel or masonry container, such as a chiminea.

Fires shall have the same meaning as burning.

Municipal Property shall include any property owner or operated by the *County*, but does not include any property which is leased out by the *County*.

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.

Notify shall mean that the person proposing to have an open air burn contacts the *County* Fire Services Dispatch and provides required information.

Vacated means the absence of any person attending to the fire.

Open Air Burning shall mean burning or combustion of materials in any open place including yards, fields or constructions areas which are not enclosed by a building or structure.

Permitted Campground means a “campground” or “recreation trailer park” as defined and permitted by the *County* Zoning By-law

Administration

2. The short-title of this by-law shall be the “Burning Regulation” By-law.
3. The administration of this by-law shall be the responsibility of the *Fire Chief* except with regard to enforcement which shall be the responsibility of the *Fire Chief* and any Provincial Offences Officer.
4. If this By-law is in conflict with any Federal or Provincial Act or Regulation, the provisions of the said Federal or Provincial Act or Regulation shall supersede those affected portions of this By-law.
5. This by-law shall apply to all lands and premises within the *County*.

Exemptions

6. The *County* Fire Services shall be exempt from the provisions of this by-law with respect to *Open Air Burnings* for the purposes of educating and training individuals.
7. Nothing in this by-law shall be construed as permitting the operation of an incinerator.

Prohibition

8. No person shall conduct or permit an *Open Air Burning* within the boundaries of the *County* unless approved by the *Fire Chief*.
9. No person shall conduct or permit an *Open Air Burning* contrary to the conditions set out in this by-law or a permit issued pursuant to this by-law.

RECREATIONAL BURNING

10. *Open Air Burning* for recreational purposes, except at a public event, is deemed to be approved by the *Fire Chief* 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 *Fire Chief* 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 *County*;

- (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*.

Special Events Permit

- 11. All persons seeking to conduct or permit an *Open Air Burning* at a public event shall apply to the *Fire Chief* for a permit.
- 12. Applications shall be submitted at least one week prior to the proposed date of the event.
- 13. The *Fire Chief* shall only issue a permit for the burning of materials included in Schedule 'B', forming part of this by-law.
- 14. The *Fire Chief* may issue a permit to allow the *Open Air Burning* to reoccur over an extended period of time.
- 15. Registered not-for-profit charitable organizations may make application to the *Fire Chief* requesting a permit fee exemption and the *Fire Chief* may authorize an exemption.
- 16. The *Fire Chief* shall not grant a permit to conduct an *Open Air Burning* at a public event, which is proposed to take place on land that is zoned for residential use.

Non-recreational Residential/Agricultural Burning –Approval Required

- 17. *Open Air Burning* on lands zoned Residential or Agricultural, that does not meet the criteria in section 10, must be approved by the *Fire Chief* and conducted in compliance with the following conditions:
 - (a) the fire is located on land designated for residential or agricultural use in the *County* zoning by-law;
 - (b) the *County* Fire Services Dispatch is *Notified* in person or by telephone, before the burning commences;
 - (c) the *County* Fire Services Dispatch is *Notified* in person or by telephone at the conclusion of the burning;

- (d) the fire is conducted between sunrise and sunset;
- (e) only materials as set out in Schedule 'B', forming part of this by-law, are burned;
- (f) the fire is attended, controlled and supervised at all times;
- (g) the fire is completely extinguished before the burn site is *Vacated*;
- (h) the fire is conducted during *appropriate weather conditions*;
- (i) the fire is confined to an area at least 15 metres from any building, structure, hedge, fence, vehicular roadway of any kind or nature, overhead wiring, or any property line;
- (j) the fire is confined to an area at least 5 metres from any object or material with potential to ignite;
- (k) steps are taken to ensure that smoke caused by the fire does not adversely affect the visibility of motorists using roads in the vicinity of the burn;
- (l) the fire does not cover a ground area exceeding ~~3 square metres~~ 9 square metres (amended by by-law 106-03);
- (m) steps are taken to ensure that the adjacent properties are protected and that *by-products* of the fire do not have a *Negative Impact* on persons, pets or the environment;
- (n) the burn is conducted in such a manner to prevent the escape of the fire or the escape of combustible solids such as sparks and ash from the fire;
- (o) an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire is immediately available for use;
- (p) the fire is not located on any road allowance or *Municipal Property* without the written permission of the *County*, unless such burning is being conducted by authorized employees of the *County* of Brant or is for the purpose of clearing the *County* drainage ditches;
- (q) means to contact the Brant *County* Fire Services are immediately available.

Non-Recreational Single Occasion – Permit

18. *Open Air Burning*, that does not meet the criteria in section 10 or 17, may be conducted under the authority of and in compliance with a permit issued pursuant to this section.
19. The *Fire Chief* shall only issue a permit for the burning of materials included in Schedule 'B', forming part of this by-law.
20. The permit is issued to allow *Open Air Burning* between sunrise and sunset, for no more than three (3) consecutive days.
21. The holder of a Burning Permit issued pursuant to this Section is required to *Notify* the *County Fire Department* dispatch centre at the telephone number specified on the permit on each and every day that they intend to burn and before any burning commences, and again when the fire is extinguished.

Commercial, Industrial, Institutional Burning – Semi-Annual Permit

22. *Open Air Burning* on lands zoned commercial, industrial or institutional that do not meet the requirements of Section 10 are not permitted except under the authority of and in compliance with a permit issued pursuant to this section.
23. The *Fire Chief* shall only issue a permit for the burning of materials included in Schedule 'B', forming part of this by-law.
24. The holder of a Burning Permit issued pursuant to this section is required to *Notify* the *County Fire Department* dispatch centre at the telephone number specified on the permit on each and every day that they intend to burn and before any burning commences, and again when the fire is extinguished.
25. The permit is issued to allow *Open air Burning* between sunrise and sunset only.
26. Any permit issued shall expire no more than six (6) months after the date of issue.

General Permit Provisions

27. The application and permit shall be in the form as set out in Schedule 'C', forming part of this by-law.
28. Each permit application must be accompanied by the applicable fee as set out in ~~Schedule 'D', forming part of this by-law~~ the County of Brant Fees and Charges By-law (consult County's fees and charges).
29. Permits are issued at the discretion of the *Fire Chief*.

30. Prior to granting a permit to conduct *Open Air Burning*, the *Fire Chief* 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.
31. The *Fire Chief* may attach such conditions as deemed appropriate to any permit granted for *Open Air Burning*.
32. The holder of the Burning Permit shall keep the permit or a copy of the permit at the burning site specified in the permit.
33. No person, being the holder of a Burning Permit, shall fail to produce the permit or a copy of the permit on the demand of a Provincial Offences Officer.
34. Any permit holder who is in violation of this By-law shall have their permit summarily revoked and all *Fires* shall be immediately extinguished.
35. Despite the existence of a valid Burning Permit, the *Fire Chief* may suspend, without recourse, any and all Burning Permits and cause to be extinguished any *Fire* until such conditions as the *Fire Chief* may indicate are met.
36. The *Fire Chief* may refuse to approve or issue a permit for an *Open Air Burning* if the proposed *Open Air Burning* would be in contravention of this by-law; if the owner, occupant or permit holder has, in the past, contravened the provisions of this by-law or has not complied with any conditions attached to a permit issued pursuant to this by-law.
37. The *Fire Chief* may withdraw a permit for an *Open Air Burning* if, in the *Fire Chief's* opinion, the fire is causing a *Negative Impact*, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated or conditions have become unfavorable for an *Open Air Burning*, conditions attached to the granting of a permit are not being adhered to or any provision of this by-law is being contravened.

Extinguished upon Demand

38. When made aware of an unapproved *Open Air Burning*, any Provincial Offences Officer may order the land owner or occupant to immediately extinguish the fire.

39. Where in the opinion of any *Provincial Offences Officer* any approved *Open Air Burning* is having a *Negative Impact* on the occupants of adjacent land, the fire is adversely affecting persons using a road or highway adjacent to the burn site, the weather has deteriorated or conditions have become unfavourable, or conditions attached the any permit or the provisions of this by-law are being contravened, the *Provincial Offences Officer* is hereby granted the authority to order the owner or occupant to immediately extinguish the fire.
40. No person conducting or permitting an *Open Air Burning* shall fail to extinguish a fire upon direction by an *Provincial Offences Officer*.

ENFORCEMENT/ENACTMENT

Penalty

41. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction shall be liable to any penalty as set out in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, and any amendments thereof.
42. 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.

Enforcement

43. The authority to enforce the provisions of this by-law is hereby granted to the *County Fire Chief*, *Municipal Law Enforcement Officers*, appointed by the County and officers of the *County's* Police and Fire Services.

Collection of Costs

44. If any contravention of the by-law results in the *County Fire Services* being dispatched, the person and/or property owner may be charged with the actual cost of the Fire Department response according to the rates established in ~~Schedule 'E'~~ the *County of Brant Fees and Charges By-law (amended by by-law)*; however, nothing in this schedule of rates shall be construed as limiting the rights of the *County of Brant* to seek restitution for other direct or consequential damages or costs incurred beyond those listed.
45. ~~Schedule 'E' forms a part of this by-law~~ (amended by by-law).
46. Should any land owner or occupant fail to extinguish a fire when ordered to do so by the *Fire Chief*, the *Fire Chief* 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 *County Fire Services* in its efforts to extinguish the fire.

Severability

47. If any section or sections of this By-Law or parts thereof are found in any court of law to be illegal or beyond the power of the *Council*, of the *County*, to enact such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and to be enacted as such.

Repeals

48. The following By-laws and any amendments to said By-laws, and any other previous by-laws regulating *Open Air Burning*, are repealed upon the resolution of *Council* following the receipt of Provincial approval of set fines in respect to this by-law:

By-law No. 5364 of the former Township of Brantford;
By-law No. 96-48 of the former Township of Burford;
By-law No. 6-96 of the former Township of South Dumfries.

Effective

49. This by-law comes into force and effect upon resolution of *Council* following receipt of Provincial approval of set fines in respect to this by-law.

READ a first time, this 19th day of November, 2002.

THE CORPORATION OF THE COUNTY OF BRANT

R.E.F. Eddy, Mayor

Jayne Carman, Clerk

READ a second time, this 3rd day of December, 2002.

READ a third time and finally passed in Council, this 3rd day of December, 2002.

THE CORPORATION OF THE COUNTY OF BRANT

R.E.F. Eddy, Mayor

Jayne Carman, 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 Wastes such as twigs and leaves
8. Other combustible materials only with the specific approval from the Fire Chief

Schedule 'C'

Burning Permit

Applicant's Name: _____

Applicant's Address: _____

City: _____ Postal Code: _____ Telephone: _____

Burn Site: _____ Burn Date: _____

City: _____ Postal Code: _____



Type of Permit:

Single Occasion

Special Event

Industrial/Commercial

Materials to be Burned: _____

Safety Measures: _____

Name of Supervisor: _____

Conditions:

1. This permit is only valid for the applicant to whom it is issued, and for the property described above.

2. Only the materials described above may be burned.

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

I, the undersigned, hereby affirm that all information provided herein is true and accurate to the best of my knowledge, AND FURTHERMORE I affirm that I have read and understand all conditions of this permit. I, the undersigned, hereby affirm that I understand the duties under the burning by-law, AND FURTHERMORE I affirm that I am liable for any damages, costs, and/or injuries that may directly or indirectly result of this burning.

Signature

Date

Permit Fee (consult County's fees and charges)

Signature of Authority

Telephone #

Date

Rcpt#

Schedule 'D'

Permit Application Fees

~~Special Events Permits (s. 11); Single Occasion Permit (s. 18)~~

~~\$ 50.00~~

~~Industrial/Commercial/Institutional Permits (s. 22)~~

~~\$ 150.00~~

(consult County's fees and charges)

Schedule 'E'

~~Cost Recovery Rates~~

~~A person or property owner in contravention of the by-law # _____ is liable to the County of Brant for the following costs of Fire Department Response:~~

- ~~1. A \$350.00 charge per Fire Department vehicle for the first hour or part thereof and a further charge of \$175.00 per Fire Department vehicle for each succeeding half-hour or part thereof. The time reference point for these charges is from the time that the Fire Department dispatch centre announces the response until the time that the Fire Department vehicles are returned to the fire hall and thereafter placed back into service.~~
- ~~2. The cost to replace or refurbish any Fire Department equipment damaged while responding to, returning from, controlling, or extinguishing any fire or report of fire.~~
- ~~3. The costs of replacement of any consumable agents, materials or devices used to control or extinguish the fire.~~

(consult County's fees and charges)

Schedule A – By-law Number 20-04
Fire Department Fee Schedule

<u>SERVICE</u>	<i>DESCRIPTION OF SERVICE</i>
Fire Response Incident Reports (Dispatch and Station Incident Report)	Copies of reports provided to owners or insurance companies upon request.
Fire Code Compliance Record Search and Response Letter	Search and letter of response detailing requested information such as outstanding fire code violations, outstanding work orders and retrofit compliance
Routine Fire Code Inspection and Report	Inspection for compliance upon request, including but not limited to, day care facilities, restaurant, liquor license Industrial compliance, office buildings
Retrofit Fire Code Inspections and Documentations	Pursuant to Part 9 of the Ontario Fire Code, O reg 388/97 as amended
Liquor License Letter	Agency Letter for Liquor License application
Wood stove inspection and documentation	Non-WETT Certified Inspection required for insurance company
Open Air Burning Permit – Non-recreational Single occasion	Pursuant to Section 18, By-law 223-02
Open Air Burning Permit - Industrial/Commercial Institutional Permit	Pursuant to Section 22, By-law 223-02
Open Air Burning Permit – Special Event Permit	Pursuant to Section 11, By-law 223-02
Open Burning Response	Pursuant to section 44, By-law 223-02
Motor Vehicle Accident Response -Non-Resident of County of Brant	Chargeable to the registered owner of the vehicle for all non-resident vehicle fires, auto extrication or other vehicle related fire department services

Schedule A – By-law 20-04
Fire Department Fee Schedule

<i>SERVICE</i>	<i>DESCRIPTION OF SERVICE</i>
Motor Vehicle Accident Response - Provincial Highway	Chargeable to Ministry of Transportation for all provincial highway accident responses
False Alarm Response - Malicious	This fee is chargeable to the owner of the property at which the alarm was activated, as defined in section 1 of the Ontario Fire Code, O reg 388/97 as amended, for each fire service vehicle that is dispatched in response to the alarm, where it is determined by the fire service, that that the alarm was intentionally activated, by any person upon the property, with malice, which is defined to include, but not be limited to, operating a manual pull station, directing smoke or heat toward a detection device for the only purpose of activating the device, or filing a false report.
False Alarm Response – Notification Failure	This fee is chargeable to the owner of the property at which the alarm was activated, as defined in section 1 of the Ontario Fire Code, O. Reg 388/97 as amended, for each occurrence where fire service vehicles are dispatched, where it is determined by the fire service, that that the alarm was due to a failure to notify the fire department or the alarm company while conducting tests or repairs on the alarm system.
False Alarm Response-Accidental	This fee is chargeable to the owner of the property at which the alarm was activated, as defined in section 1 of the Ontario Fire Code, O. Reg 388/97 as amended, for every fourth and subsequent occurrence within a 30 day period and to every 6 th or subsequent occurrence in a calendar year, where fire service vehicles are dispatched, and it is determined by the fire service, that the alarm was due to a properly functioning alarm system detecting a situation that it was designed for, except if the detection is a result of failed notification of testing and repairs to the system or of a condition not within the control of the owner, including but not limited to, changes in atmospheric conditions, excessive vibrations, power failure or drops in water pressure.
Special Occasion Attendance	Attendance by Fire department trucks and personnel during fireworks display, dances or other private functions.