

BY-LAW NUMBER 55-24

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**THE CORPORATION OF THE COUNTY OF
BRANT**

A by law to repeal and replace by law 102-23
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 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 10(2) of the *Municipal Act, 2001* 2001, S.O. 2001, c.25 (*Municipal Act, 2001*) a single tier municipality may pass by-laws respecting 6., the health, safety and well-being of persons and 8., the protection of persons and property.

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

Definitions

“Appropriate Weather Conditions” shall mean that the wind speed does not exceed 15 kilometres per hour or changes direction frequently or during rainy or foggy weather or at times when an air quality/smog alert has been declared by the Ministry of the Environment or any successor and relevant Ministry. The appropriate Federal and/or Provincial Government agency shall be used as the source of this information.

“Burn Ban” means a period of time by which the Chief Fire Official or designate determines that Open Air Burning is Prohibited;

“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 Corporation 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 open air burning.

“Municipal Property” shall include any property *owned* 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:

- (a) actual damage to property or to plant or animal life;
- (b) harm or material discomfort to any person;
- (c) impairment of the safety of any person
- (d) loss of normal use of property; or
- (e) interference with normal conduct of business.

“Notify” shall mean that the person proposing to have an open-air burn contact the *County* of Brant Fire Department Dispatch and provides required information.

“Owner” means the registered owner, occupant or tenant of a *Property*, or a *Person* who, for the time being or permanently, is managing or receiving the rent from a *Property*, whether on his or her own account or on account of an agent or trustee of any other *Person*, or any one of the aforesaid;

“Person” means an *Owner*, an individual, or group of individuals, unincorporated association, sole proprietorship, partnership or corporation;

“Property” means land that may have a building (occupied or unoccupied) on it or vacant land;

“Sky Lanterns” means a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended underneath.

“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

1. The short title of this by-law shall be the “Open Air Burning” By-law.
2. 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.
3. 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.
4. This by-law shall apply to all lands and premises within the *County*.
5. Notwithstanding the conditions in this By-law in which *Open Air Burning* is approved, the *Fire Chief* or designate shall have the authority to issue a *burn ban* under the conditions of a drought, pandemic, state of emergency, which would supersede all approvals to conduct *Open Air Burning* in accordance with this By-law.

Exemptions

6. The *County* of Brant Fire Department 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 should be construed as permitting the operation of an incinerator.

Prohibition

8. No Person shall use or permit the use of *Sky Lanterns* in the County of Brant.
9. No Person shall conduct or permit an *Open Air Burning* within the boundaries of the *County* unless approved by the *Fire Chief*.
10. 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.
11. No Person shall hinder or obstruct, or attempt to hinder or obstruct, any *Person* who is exercising a power or performing a duty under this by-law including by refusing to identify themselves when requested to do so.

12. No person shall fail to comply with and Order issued pursuant to this By-law.

Recreational Burning

13. *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, with a height of no more than 1 metre;
 - (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 effect on the visibility of motorists using roads in the vicinity of the burn;
 - (g) the *Owner* takes steps to ensure that nearby 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*.
 - (n) not conducted during a *burn ban* issued by the *Fire Chief*

Special Events Permit

14. All persons seeking to conduct or permit an *Open Air Burning* at a public event shall apply to the *Fire Chief* for a permit.
15. Applications shall be submitted at least one week prior to the proposed date of the event.
16. The *Fire Chief* shall only issue a permit for the burning of materials included in Schedule 'B', forming part of this by-law.
17. The *Fire Chief* may issue a permit to allow the *Open Air Burning* to reoccur over an extended period of time.
18. 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.
19. 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.
20. No person shall conduct *Open Air Burning* at a public event:
 - a) without an approved permit;
 - b) in contravention of the *appropriate weather conditions*;
 - c) during a *burn ban* issued by the *Fire Chief*.

Non-recreational Residential/Agricultural Burning –Approval Required

21. *Open Air Burning* on lands zoned Residential or Agricultural, that does not meet the criteria in section 13, 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 of Brant Fire Department Dispatch* is *Notified* in person or by telephone, before the burning commences;
 - (c) the *County of Brant Fire Department Dispatch* is *Notified* in person or by telephone at the conclusion of the burning;
 - (d) the fire is conducted no earlier than sunrise and shall be completely extinguished before 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 is contained in a *Fire Pit* which is no more than one square metre in area, with a height of no more than 1 metre when conducted on residential properties;
- (m) the fire does not cover a ground area exceeding 9 square metres (amended by by-law 106-03) with a height no more than 3 metres when conducted on non-residential properties.
- (n) 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;
- (o) 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;
- (p) an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire is immediately available for use;
- (q) 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;
- (r) a means to contact the *County of Brant Fire Department* shall be immediately available;
- (s) is not conducted during a *burn ban* issued by the *Fire Chief*.

Non-Recreational Single Occasion – Permit

22. *Open Air Burning*, that does not meet the criteria in section 13 may be conducted 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 permit is issued to allow *Open Air Burning* no earlier than sunrise and shall be completely extinguished before sunset, for the time period specified by the *Fire Chief*.
25. The holder of a Burning Permit issued pursuant to this Section is required to *Notify* the County of Brant 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.
26. No person shall conduct non-recreational open air burning:
 - a) in contravention of the *appropriate weather conditions*; or
 - b) during a *burn ban* issued by the *Fire Chief*.

Commercial, Industrial, Institutional Burning – Semi-Annual Permit

27. *Open Air Burning* on lands zoned commercial, industrial, or institutional that do not meet the requirements of Section 13 are not permitted except under the authority of and in compliance with a permit issued pursuant to this section.
28. The *Fire Chief* shall only issue a permit for the burning of materials included in Schedule 'B', forming part of this by-law.
29. The holder of a Burning Permit issued pursuant to this section is required to *Notify* the *County* of Brant 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.
30. The permit is issued to allow *Open air Burning* between sunrise and sunset only.
31. Any permit issued shall expire no more than six (6) months after the date of issue.
32. No person shall conduct Commercial, Industrial, Institutional Burning open-air fires:
 - a) in contravention of the *appropriate weather conditions*; or
 - b) during a *burn ban* issued by the *Fire Chief*.

General Permit Provisions

33. The application and permit shall be in a form and available to apply online as part of this by-law.
34. Each permit application or service is subject to the applicable fee as set out in the County of Brant Fees and Charges By-law (consult County's fees and charges).
35. Permits are issued at the discretion of the Fire Chief.
36. 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.
37. The *Fire Chief* may attach such conditions as deemed appropriate to any permit granted for *Open Air Burning*.
38. The holder of the Burning Permit shall keep the permit or a copy of the permit at the burning site specified in the permit.
39. 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.
40. Any permit holder who is in violation of this By-law shall have their permit summarily revoked and all *Fires* shall be immediately extinguished.
41. 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.
42. 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.
43. 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

44. When made aware of an unapproved *Open-Air Burning*, any Provincial Offences Officer may order the *Owner* to immediately extinguish the fire.
45. The Provincial Offences Officer is hereby granted authority to order the *Owner* or occupant to immediately extinguish the fire where the opinion of the Provincial Offences Officer any approved Open Air Burning is having a Negative Impact on the occupants or neighbouring properties, the fire is adversely affecting person using a road or highway adjacent to the burn site, the weather has deteriorate, conditions have become unfavourable, or conditions attached to the permit or the provisions of this by-law are being contravened.
46. No person conducting or permitting an *Open-Air Burning* shall fail to extinguish a *fire* upon direction by a *Provincial Offences Officer*.

Enforcement/Enactment

47. Pursuant to section 436 of the Municipal Act, 2001, any employee, officer or agent of the County carrying out an inspection pursuant to this By-law may:
 - (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove the inspection for the purpose of making copies or extracts;
 - (c) require information from any Person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
48. Pursuant to section 444 of the Municipal Act, 2001, where the County is satisfied that a contravention of this By-law has occurred, the County may make an order requiring the Person who contravened the by-law or who caused or permitted the contravention or the *Owner* of the land on which the contravention occurred, to discontinue the contravening activity.
49. Pursuant to section 445 of the Municipal Act, 2001, where the County is satisfied that a contravention of a by-law of the municipality passed under this or any other Act has occurred, the County may make an order requiring the Person who contravened the by-law or who caused or permitted the contravention or the *Owner* of the land on which the contravention occurred to do work to correct the contravention.
50. Pursuant to section 446 of the Municipal Act, 2001, where the County has the

authority under this By-law or under any Act to direct or require a Person to do a matter or thing, in default of it being done by the Person directed or required to do it, the County may enter upon land at any reasonable time, to perform the work at the Person's expense and may recover the costs from the Person directed or required to do it, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

Penalty

51. 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.
52. 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

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

Collection of Costs

54. If any contravention of the by-law results in the *County of Brant* Fire Department being dispatched, the person and/or *property Owner* may be charged with the actual cost of the County of Brant Fire Department response according to the rates established in 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.
55. Should any *Owner* 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 of Brant* Fire Department in its efforts to extinguish the fire.

Severability

56. 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 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

57. By-law 102-23 is hereby repealed and replaced upon passage of this by-law.

Effective

58. This by-law comes into force and effect upon third reading.

READ a first and second time, this 25th day of June 2024.

READ a third time and finally passed in Council, this 25th day of June 2024.

THE CORPORATION OF THE COUNTY OF BRANT

David Bailey, Mayor

Alysha Dyjach, 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