

THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON

BY-LAW NO. 043-2009

BEING A BY-LAW TO REGULATE THE SETTING OF OPEN AIR FIRES

WHEREAS, Section 5 of the *Municipal Act, 2001*, as amended, specifies that a Municipal Council shall exercise its powers by By-Law;

AND WHEREAS, Sections 8 and 9 of the *Municipal Act, 2001*, 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 Municipal Act or any other Act;

AND WHEREAS, Section 11 (2) of the *Municipal Act, 2001*, as amended, specifies the Spheres of Jurisdiction the Municipality may pass By-Laws respecting matters in those Spheres of Jurisdiction, including the protection of persons and property;

AND WHEREAS the Council of the Corporation of the Municipality of Brighton deems it expedient to make provisions for regulating the "setting of fires" and specifically matters related to the notification of the Brighton and District Fire Department, permitted times, the manner in which set fires that spread or become out of control will be dealt with in the Municipality of Brighton;

NOW, THEREFORE, the Council of The Corporation of the Municipality of Brighton enacts as follows:

1. Definitions

- 1.1. "approval" means approved by the Fire Chief or his/her designate/s, unless otherwise stated;
- 1.2. "brush fire" means an open air fire where the size of the material to be burned does not exceed 3.0 metres in height, width and length, unless approved and where the open air fire is set 15.0 metres from buildings and property lines and maintained solely for the purposes of burning wood, tree limbs, branches and other vegetative material;
- 1.3. "campfire" means an open air fire where the size of the material to be burned does not exceed 1.0 metres in width and 0.75 metres in height, that is set and maintained solely for the purposes of cooking food, providing warmth and recreational enjoyment;
- 1.4. "campground" means an area of land owned or operated by a person and that contains camp sites, for the purpose of providing overnight accommodation for tents and trailers in exchange for monetary payment;
- 1.5. "Corporation" means the Corporation of the Municipality of Brighton;
- 1.6. "fire ban" means a period of time during which the Fire Chief or his designate declares a total ban on open air fires;
- 1.7. "Fire Chief" means the Chief of the Brighton and District Fire Department, or his designate;
- 1.8. "Fire Dispatch" means the telephone answering service, with 24 hour service, as contracted with the Municipality of Brighton;
- 1.9. "incinerator" means metal drum or concrete enclosure that does not exceed 1.5 metres in diameter and 1.5 metres in height, that is hooded or screened, to prevent the blowing of sparks or ashes etc.;

- 1.10. "non-flammable surface" means a material such as concrete, patio stones, metal or gravel;
- 1.11. "open air fire" means the burning of material such as wood, tree limbs and branches where the flame is not wholly contained and includes campfires, brush fires, incinerators and outdoor fire places, but does not include barbecues;
- 1.12. "outdoor fireplace" means a manufactured, non-combustible, enclosed container designed to hold a small fire for decorative purposes and the size of which does not exceed 1.0 metres in any direction and includes, but is not limited to a chiminea;
- 1.13. "person" means an individual, association, firm, partnership, corporation, agent, or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law;
- 1.14. "prohibited debris" means any waste, product or thing that, when burned may result in the release to the atmosphere of dense smoke, offensive odors or deleterious products, tires, rubber, plastic, pathological waste, household refuse.
- 1.15. "set" means to light an open air fire and "setting" has a corresponding meaning;

2. General Provisions

- 2.1 Except as otherwise set out in this By-law, no person shall set, maintain, or cause to be set or maintained a brush fire or a campfire at any time or place within the Municipality unless such person has first notified the Fire Dispatch for the Municipality of Brighton and providing the said office with such information as that may be required.
- 2.2 No open air fire shall be left unattended, and it shall be under the immediate and constant supervision by an adult person, and such person shall maintain that the open air fire is under control at all times to prevent the spread thereof, until it has been fully extinguished within the required time period.
- 2.3 That some means of extinguishing the open air fire, such as shovels, rakes, fire buckets, garden hose, etc. shall be available at or near the location of the fire at all times.
- 2.4 No person shall set or start or permit to set or start an open air fire within 4.5 metres (15 feet) from any property line, or 4.5 metres from any building.
- 2.5 Any open air fire set pursuant to, and in accordance with this By-Law shall be completely extinguished before attendants at the fire scene shall leave.
- 2.6 Any burning must take place between the time of sunrise and sunset, except for campfires and outdoor fireplaces, as otherwise set out herein.
- 2.7 No open air fire shall be ignited when the wind is in such a direction or intensity so as to cause any or all of the following:
 - a. smoke and/or odour nuisance to neighbouring premises or buildings,
 - b. a decrease in visibility on any highway or roadway;
 - c. a rapid spread of fire through grass or a brush area.
- 2.8
 - a. On lands that are zoned Agricultural or Rural in the Municipality's Comprehensive Zoning By-law, No. 140-2002 as amended from time to time, a farmer, in either the rural or urban area, who intends to set or maintain an open air fire on a specified day for disposal of vegetable matter or vegetation on farm lands which is normal and incidental for farming purposes shall be required to notify the Fire Chief or alternate a minimum of 48 hours to obtain approval prior to burning
 - b. A farmer, in either the rural or urban area, who intends to set or maintain an open air fire on a specified day for disposal of vegetable matter or vegetation on farm lands which is normal and incidental for farming purposes shall be required to notify the Fire Department Dispatch on each day of the proposed fire.

- 2.9 A farmer/owner may extend the time of burning other than the hours in this By-Law by requesting from the Fire Chief or alternate for longer hours, providing all safe burning recommendations are met.

3. Campfires

- 3.1 A campfire shall not be set or maintained except in accordance with the provisions of this By-law and the following matters specifically:
- 3.1.1 No person or persons shall set or start or permit to set or start a campfire in the open air at any time or place within the Municipality unless such person or persons first notifies the Fire Dispatch for the Municipality of Brighton and providing the said office with such information as that may be required;
- 3.1.2 A campfire shall be supervised at all times;
- 3.1.3 Campfires shall take place between sunrise and 12:00 a.m.; and
- 3.1.4 Campfires shall not be located closer than 4.5 metres (15 feet) from a property line, a building hedge or fence.
- 3.2 Within a campground, zoned for such use in By-law No, 140-2002, as amended, campfires may be established without notice to the Fire Dispatch for the Municipality of Brighton.

4. Incinerators

- 4.1 The use of incinerators is prohibited within the Brighton Urban Area as illustrated on the attached Schedule 'A' to this By-law;
- 4.2 Notwithstanding the notice provisions set out in Clause 2.1 of this By-Law, the setting of a fire in an incinerator does not require notifying the Fire Dispatch;
- 4.3 Incinerators shall be setback a minimum of 4.5 metres (15 feet) from a property line, a building hedge or fence;
- 4.4 Incinerators shall be placed in an area clear of vegetation within 2 metres (6 feet).

5. Outdoor Fireplaces

- 5.1 Notwithstanding the notice provisions set out in Clause 2.1 of this By-Law, the setting of a fire in an outdoor fireplace does not require notifying the Fire Dispatch;
- 5.2 Outdoor fireplaces shall be setback a minimum of 4.5 metres (15 feet) from a property line, a building, hedge or fence;
- 5.3 Outdoor fireplaces shall only be used if installed on a non-flammable surface that extends at least 0.6 metres (2.0 feet) beyond all edges of the outdoor fireplace.

6. Brush Fires

- 6.1 Except as permitted pursuant to section 2.8, the setting of brush fires is prohibited within the Brighton Urban Area as illustrated on the attached Schedule 'A' to this By-law.

7. Fire Ban

- 7.1 The Fire Chief or designate may at any time implement a fire ban to any burning within the Municipality or part of the Municipality for any reason, where such a ban is necessary because of fire hazard conditions.
- 7.2 Such a ban shall be publicized upon implementation in a sufficiently general manner.

8. General

- 8.1 The Fire Chief or designated alternate may, at such time, suspend any fire set under this By-Law, upon a valid complaint, smoke nuisance, or if the Fire Chief or

designate deems the location, situation or conditions to be hazardous and enact at any time any provisions of the Fire Marshals Act that may pertain to this By-Law.

- 8.2 The provisions of this By-Law shall not be construed as permission for the setting of a fire or for burning any material, whatsoever, but shall be for the sole purpose of controlling the setting and spreading of fires and for complimenting fire prevention programs within the Municipality of Brighton.
- 8.3 Neither the Municipality nor Brighton and District Fire Department shall be held responsible for any damages or loss that may be incurred by a person due to fires set or started pursuant to the provisions of this By-Law.
- 8.4 The provisions of this By-Law shall not be construed as taking precedence over any other applicable Provincial or Federal Legislation.
- 8.5 Neither the Municipality nor Brighton and District Fire Department shall be held responsible for any action by any person or persons in the setting of any fire pursuant to the provisions of this By-Law, which may result in any contravention of the provisions of this By-Law, which may result in any contravention of the Environmental Protection Act (i.e., the burning of hazardous wastes, furniture, et cetera).
- 8.6 In the event any court of competent jurisdiction should adjudge that any section or sections of this By-Law is/are not valid for any cause, such section or sections shall be deemed severable from the remainder of the By-Law and the remainder of the By-Law shall stand and be enforced to the same extent as if the offending section or sections had not been included therein.
- 8.7 The provisions of this By-Law do not allow the burning of prohibited debris, household waste, recyclables allowable in the county waste program or hazardous waste including, but not limited to items such as tires, railway ties, oil and plastic products.

9. Enforcement

- 9.1 Every person who is responsible for the setting or maintaining of an open air fire, whether the person notified the Fire Department or not, shall be liable for all costs incurred by the Brighton and District Fire Department in extinguishing such fire in the event that:
 - a. the fire becomes out of control;
 - b. the fire is set in contravention of the provisions of the Ontario Fire Code, or any of the provisions of this By-Law; or
 - c. the fire is extinguished in the circumstances described in Section 9.2 of this By-Law.
- 9.2 Any person who contravenes any provision of this By-Law shall be liable for all damages to public or private property caused by the fire and shall also be liable for the full cost of extinguishing the fire. E.g.: liable costs incurred by the fire department, including necessary personnel, equipment and apparatus called in to extinguish the said fire, Ministry of Natural Resources fire bombers or fire crews, other Fire Departments on mutual aid etc.
- 9.3 Where the Fire Chief or his designate in response to a complaint regarding an open air fire, attends such fire scene, and finds that the person or persons setting or maintaining the fire has failed to notify Fire Dispatch, an attendance fee may be levied on the person responsible, whether or not the fire is extinguished by either the person setting or maintaining the fire or the Brighton and District Fire Department. This fee will be additional to any costs set out in Subsection 9.1 of this By-Law.
- 9.4 The attendance fee referred to in Subsection 9.2 shall be as set out in the Municipality's Fees and Service Charges By-law, as amended from time to time.
- 9.5 All costs related to attendance and/or suppression shall be due when presented to the responsible person either in person or by regular mail, all costs not paid in a period of 90 days may be added to the tax bill of the property involved and collected in the same manner as taxes.

9.6 Any person who contravenes any provision of this By-Law is guilty of an offence and is liable on conviction to such penalties as provided by the provisions of the *Provincial Offences Act, RSO 1990, Chapter P.33*, and all such penalties shall be recoverable pursuant to the said Act.

10. Schedule "A"

10.1 That Schedule "A" attached hereto by this reference is deemed to form part of this By-law.

11. Applicability

11.1 The provisions of this By-Law shall apply to the whole Municipality of Brighton.

12. Repeal

12.1 That By-law No. 034-2009 passed on the 15th day of June 2009 is hereby repealed in its entirety.


13. Short Title

13.1 The short title of this By-law shall be the "Fire Control By-Law".

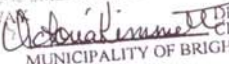
14. Enactment

14.1 That this By-law shall come into force and take effect on the date of final passage.

READ A FIRST, SECOND TIME, READ A THIRD TIME, AND FINALLY PASSED THIS 8th DAY OF SEPTEMBER, 2009.


Christine Herrington, Mayor


Gayle J. Frost, CAO/Clerk

CERTIFIED TO BE A TRUE AND CORRECT COPY
OF THE ORIGINAL DOCUMENT WHICH HAS NOT BEEN
ALTERED IN ANY WAY

RICHARD EMMETT, DEPUTY CLERK
MUNICIPALITY OF BRIGHTON