

# The Corporation of the Municipality of Brighton

## By-Law No. 125-2016

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### Being a By-Law to Regulate and Control Open Air Burning within the Municipality of Brighton

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**Whereas**, Section 7.1 (1) (b) of the Fire Protection and Prevention Act, 1997 S.O. 1997, c.4, authorizes a Municipality to pass by-laws regulating the setting of open air fires,

**And whereas**, Section 391 of the Municipal Act, 2001 S.O. 2001, c. 25 authorizes a Municipality to pass by-laws imposing fees for services provided,

**And whereas**, the Council of the Corporation of the Municipality of Brighton deems it expedient to pass a by-law for this purpose,

**Now, therefore**, the Council of the Corporation of the Municipality of Brighton enacts as follows:

#### **Section 1.0      Definitions:**

In this By-law:

**"Barbeque"** shall mean appliances including a hibachi, or structure designed and intended solely for the cooking of food in the open air, and other similar commercially manufactured devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire pits or campfires,

**"Burn Permit"** shall mean a Permit issued by the Municipality of Brighton to allow open air burning in compliance with this By-law,

**"Farm"** shall mean a premises associated with and located on land devoted to the practice of farming and used primarily for the housing of equipment or livestock or the production, storage or processing of agricultural and horticultural produce or feeds,

**"Fire Ban"** shall mean a directive from the Fire Chief prohibiting the setting of any and all open air fires within the Municipality,

**"Fire Chief"** shall mean the Fire Chief for the Brighton District Fire Department or, for the purposes of this By-law, any of his or her designates appointed by the Fire Chief and acting under the Fire Chief's direction,

**"Fire Department"** shall mean the Brighton District Fire Department and any member thereof,

**"Incinerator"** means a metal drum or concrete enclosure that does not exceed 1.5 (5 feet) metres (5 feet) in diameter and 1.5 metres (5 feet) in height, and is hooded or screened to prevent the blowing of sparks and/or ashes.

**"Municipality"** shall mean the Corporation of the Municipality of Brighton.

**"Open Air Burning"** shall mean a fire for the burning of any material outside of a building, including and without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is thereby open to the air,

**"Open Burning Device"** shall mean any commercially manufactured device or a fire pit no bigger than 1 meter (3.3 feet) across and 0.75 meters (2.5 feet) high for the purpose of containing a recreational fire.

**"Permit Holder"** shall mean the person named as such on the Burn Permit issued by the Municipality of Brighton,

**"Recreational Burning"** shall mean an open air burn that is set and maintained solely for the purposes of providing warmth or recreational enjoyment.

## **Section 2.0 Prohibitions**

- 2.1 No person shall cause or permit an open air burn on any land for any purpose other than to cook on a barbecue, without first having obtained a Burn Permit issued by the Municipality in accordance with the provisions of this By-law and Schedule 'A' thereto.
- 2.2 The holder of a Burn Permit shall at all times, have a competent person eighteen (18) years of age or older at the burn site for the purpose of tending, controlling and supervising the fire.
- 2.3 No person shall cause or permit a burn without first calling 1-844-475-1744 to activate the Burn Permit and after the fire is out, calling 1-844-475-1744 to de-activate the Burn Permit.
- 2.4 No person shall cause or permit an open air burn during a Fire Ban or when a smog alert has been declared by the Ministry of Environment, when the Natural Resources Canada 'Fire Danger Rating' is greater than low, or when the wind speed exceeds 30 kilometers per hour (19 miles p/h).
- 2.5 No person in possession of a Burn Permit shall cause or permit an open air fire during a Fire Ban.
- 2.6 Every person responsible for tending, controlling and supervising a burn shall ensure that the fire is completely extinguished before the burn site is vacated.
- 2.7 No person shall cause or permit the burning of material using an incinerator within the urban area of the Municipality of Brighton.
- 2.8 No person shall cause or permit the burning of material other than commercially produced charcoal, briquettes, or dry and clean seasoned wood.
- 2.9 No person shall cause or permit smoke caused by a burn to have a negative impact on the visibility of motorists using roads in the vicinity of the burn, inconvenience other persons or have a negative impact on abutting properties.
- 2.10 The holder of a Burn Permit shall have an effective extinguishing agent or device of sufficient size and with the capability of extinguishing the fire, at the burn site and readily available for use.
- 2.11 The Fire Department shall be exempt from the provisions of this By-law with respect to open air burning for educational and training purposes.

## **Section 3.0 Regulations for Recreational Burning**

- 3.1 The holder of a Burn Permit for recreational burning shall, in addition to complying with Section 2.0 of this By-law, comply with the following:
  - a) the burn is to be at ground level only,

- b) all material to be burned is to be confined to an approved open burning device,
- c) keep the burn confined to a location that provides for a minimum distance of 4.5 metres (15 feet) in all directions from adjacent properties,
- d) keep the burn confined to an area that is a minimum of 4.5metres (15 feet) from buildings, structures and/or other combustible objects and materials.

**Section 4.0 Regulations for Open Air Burning on Farms**

- 4.1 The holder of a Burn Permit for open air burning on a farm shall, in addition to complying with Section 2.0 of this By-law, comply with the following regulations:
- a) conduct open air burning during daylight hours only,
  - b) keep the burn confined to an area that is at least 46 metres (150 feet) from any highway, road or wooded area and from any building, structure or other combustible objects and materials.

**Section 5.0 Regulations For Incinerator Burning In Rural Areas**

- 5.1 The holder of a Burn Permit for incinerator burning shall, in addition to complying with Section 2.0 of this By-law, comply with the following regulations:
- a) keep the incinerator setback a minimum of 4.5 metres (15 feet) in all directions from adjacent properties,
  - b) keep the incinerator setback a minimum of 4.5 metres (15 feet) from buildings, structures and/or other combustible objects and materials,
  - c) keep the area surrounding the incinerator clear of vegetation for a distance of 2 metres (6 feet) in all directions.

**Section 6.0 Fees**

- 6.1 The permit fee as stipulated in Schedule 'B' to this By-law shall be paid at the time a Burn Permit is issued.
- 6.2 The Municipality may levy fees as set out in Schedule 'B' to this By-law for each occasion on which the Fire Department attends at the site of an open air fire and deems it appropriate to take such action as needed in the interest of fire prevention and protection when it finds that:
- a) a Burn Permit has not been issued, or
  - b) notwithstanding that a Burn Permit has been issued, a competent person eighteen (18) years of age or older is not at the burn site for the purpose of tending, controlling and supervising the fire,
  - c) any provision of this By-law has been contravened.
- 6.3 At the discretion of the Fire Chief, fees may also be levied for the cost for any special equipment or assistance needed and such fees will be billed at cost plus an additional amount equal to two times the cost to recover administrative expenses.

- 6.4 Fees imposed pursuant to Section 5.2 and 5.3 of this By-law, are payable to the Municipality of Brighton by the party or parties who are deemed by the Fire Chief to be responsible for the fire. Any fee in arrears will be forwarded to the Municipality's Finance Department for collection in accordance with the Accounts Receivable Collections Policy including in a like as Municipality taxes.

**Section 7.0 Enforcement and Offences**

- 7.1 The Fire Chief may at any time and at his/her sole discretion, issue a 'Fire Ban', effective for a specified period of time, prohibiting the setting of any and all open air fires within the Municipality.
- 7.2 The Fire Chief may revoke any or all permits or refuse to issue permits where a 'Fire Ban' has been imposed and where, in the opinion of the Fire Chief, the ability to control the fire is hampered by a dangerous condition which exists on, or is in the proximity of, the proposed open air burning site, or where there is a history of non-compliance with the Burning Bylaw.
- 7.3 For the purposes of this By-Law, each day or part of a day on which the offence occurs or continues shall be deemed to be a separate offence.
- 7.4 Any person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine and/or penalty for each offence pursuant to Part VII of the Fire Protection and Prevention Act, 1997 S.O. 1997, c.4.
- 7.5 Any person who violates any provision of this By-Law is, upon conviction, guilty of an offence and is liable to such penalties prescribed by the Provincial Offences Act, R.S.O., 1990, Chapter P.33.
- 7.6 Set fines for contravention of this By-law are set out in Schedule 'C' of this By-law.
- 7.7 Any person who contravenes any provision of this By-law as listed in Schedule 'C' is liable to a fine as set out in the Schedule 'C'.

**Section 8.0 Validity**

In the event any Court of competent jurisdiction declares any section or provision of this By-law to be invalid, or to be of no force and effect for any cause, such section or provision thereof shall be deemed severable from the remainder of the By-law and the remainder of the By-law shall stand and be enforceable to the same extent as if the offending section or provision thereof had not been included herein.

**Section 9.0 Repeal**

By-law 043-2009 is hereby repealed.

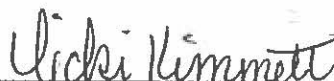
**Section 10.0 Enactment**

This By-Law shall come into force and take effect on the day it is passed.

Read a first, second and third time and finally passed this 19<sup>th</sup> day of December, 2016.



Mark A. Walas, Mayor



Vicki Kimmatt, Deputy Clerk

**Schedule 'A'**

**Burn Permit**

<b>To be Completed by the Applicant</b>	
Name of permit holder (please print):	
Address:	
Telephone Number:	
Email address:	
Type of burn being requested:	Incinerator [ <input type="checkbox"/> ] Land clearing [ <input type="checkbox"/> ] Backyard fire pit [ <input type="checkbox"/> ] Other _____
<b>Location within the Municipality of Brighton where the fire is to be permitted:</b>	
Address:	
Telephone number at this location:	
Date:	Signature:

**Permit Number:** \_\_\_\_\_

<b>BRIGHTON FIRE DEPARTMENT - FOR OFFICE USE ONLY</b>	
<b>The permit is for the period from:</b>	
_____ to and including _____, and _____ (Day/Month/Year) (Day /Month/Year)	
is hereby <b>APPROVED</b> subject to the following conditions:	
1. You notify your neighbours before any open air burning. 2. You call <b>1-844-475-1744</b> to activate your permit before you light any fire. 3. You call <b>1-844-475-1744</b> to deactivate your permit once the fire is out. 4. You insure the burn is conducted in full compliance with By-law _____, a copy of which is attached hereto.	
Date:	Signature of Issuing Officer:

**NOTE: In the case of an emergency, to report a fire DIAL 911.**

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Schedule 'B'

<b>Permits</b>	<b>Rate</b>
Burn Permit Fee	\$ 20.00 per calendar year.
<b>Equipment</b>	<b>Rate</b>
Pumper	\$ 450.00 per hour
Tanker	\$ 450.00 per hour
Emergency / Equipment Van	\$ 450.00 per hour
Firefighter	Included with apparatus

**Note:**

- In any case where a fraction of an hour is charged, the fee shall be taken to the next full hour – i.e. – equipment committed for 1.25 hours will charge for 2 hours.
- All consumables used (i.e. foam etc.) shall be replaced at cost by the permit holder and/or the property owner.

## The Corporation of the Municipality of Brighton

**Schedule 'C'**  
**Open Air Burning**  
**Part 1 Provincial Offences Act**

ITEM	Short Form Wording	Provision creating or defining offence	Set Fine
1.	Cause or permit an open air burn without a permit.	2.1	\$ 200.00
2.	Fail to have a competent person 18 years of age or older tend, control and supervise a fire.	2.2	\$ 200.00
3.	Fail to contact the Fire Department before activating or de-activating a Burn Permit.	2.3	\$ 200.00
4.	Cause or permit an open air burn during _____ (specify) _____.	2.4	\$ 200.00
5.	While in possession of a Burn Permit did permit or cause a burn during a Fire Ban.	2.5	\$ 500.00
6.	Fail to extinguish a fire before the burn site is abandoned.	2.6	\$ 500.00
7.	Burn material in an incinerator within the urban area of the Municipality of Brighton.	2.7	\$200.00
8.	Did burn material other than what is permitted, namely _____ (specify) _____.	2.8	\$200.00
9.	Cause or permit smoke from a burn to have a negative impact on _____ (specify) _____.	2.9	\$200.00
10.	Fail to have an effective extinguishing agent or device at the burn site.	2.10	\$ 200.00
11.	Cause or permit a recreational burn at other than ground level.	3.1 a)	\$ 200.00
12.	Cause or permit a recreational burn that is not confined to an approved open burning device.	3.1 b)	\$ 200.00
13.	Cause or permit a recreational burn closer than 4.5 metres to an adjacent property.	3.1 c)	\$ 200.00
14.	Cause or permit a recreational burn closer than 4.5 metres to _____ (specify) _____.	3.1 d)	\$ 200.00
15.	Did conduct an open air burn on a farm beyond daylight hours.	4.1 a)	\$ 200.00
16.	Fail to keep a burn confined to at least 46 metres from _____ (specify) _____.	4.1 b)	\$ 200.00
17.	Cause or permit an incinerator burn closer than 4.5 metres to an adjacent property.	5.1 a)	\$ 200.00
18.	Cause or permit an incinerator burn closer than 4.5 metres to _____ (specify) _____.	5.1 b)	\$ 200.00
19.	Fail to keep the area surrounding an incinerator clear of vegetation for a distance of 2 metres.	5.1 c)	\$ 200.00

**Note:** The general penalty provision for the offences listed above is section 7.5 of By-law 125-2016, a certified copy of which has been filed.