

THE CORPORATION OF THE TOWNSHIP OF EAST HAWKESBURY

BY-LAW NO. 2016-44

A By-Law to Regulate Open Air Burning within the Township of East Hawkesbury

WHEREAS *subsection 7.1 (1)(b) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4*, as amended, authorizes the council of a municipality to pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set; and

WHEREAS *subsection 10(2) of the Municipal Act, 2001, S.O. 2001, c.25*, as amended, authorizes the municipality to pass by-laws respecting the health, safety and well being of persons; and

WHEREAS *Section 128 of the Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that the Council of a local municipality may pass by-laws to prohibit and regulate with respect to public nuisances ; and

WHEREAS the regulation of open air burning is important for the health, safety and well being of the inhabitants of the municipality;

AND WHEREAS the Council of the Township of East Hawkesbury deems it advisable to enact such a by-law;

NOW THEREFORE the Council of the Corporation of the Township of East Hawkesbury hereby enacts as follows:

PART 1 - INTERPRETATION

Definitions

1. In this By-Law:

- * "**brush fire**" means a fire set for the purposes of burning in a pile, brush, branches, grass vegetation or leaf type material only;
- * "**burn permit**" means a burn permit that is issued in accordance with this By-Law authorizing a brush fire or burning in piles by Eligible Farmers;
- * "**burn barrel**" means a steel container similar in construction to a 45-gallon drum and with a volume no greater than that of a 45-gallon drum;

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- * **"By-Law Enforcement Officer"** means a person duly appointed by the Council of the Township of East Hawkesbury to enforce Township By-Laws;
 - * **"campfire"** means a fire intended for recreational, cooking or warmth purposes only;
 - * **"fire"** means a fire in the open air, whether or not the fire is contained within a device or appliance;
 - * **"Eligible Farmers"** means farmers who are members in good standing of the Ontario Federation of Agriculture, the National Farmers' Union, the Christian Farmers' Association, or any other valid farming organization;
 - * **"Fire Chief"** means the Fire Chief of the Township of East Hawkesbury and includes his or her duly authorized designate;
 - * **"Burning in piles by eligible farmers"** means a fire set by an Eligible Farmer within the boundaries of the Township of East Hawkesbury to burn large piles during land clearing operations;
 - * **"property"** includes a building or structure or part of a building or structure, and includes the lands appurtenant thereto and all mobile homes, mobile buildings or mobile structures and vacant land;
 - * **"registered owner"** includes the person who is shown as owner of a property in the records of the Land Registry Office, a trustee acting on behalf of the registered owner, the estate trustee of a registered owner, a person with a leasehold interest in the land and an authorized representative of a corporate registered owner; and
 - * **"Township"** means the Township of East Hawkesbury

Short Title

2. This By-Law shall be known as the "Open Air Burning By-Law."

PART 2 - APPLICATION

Application

3. This By-Law applies within the geographic limits of the Township of East Hawkesbury.

Effect of Other Legislation

4. Nothing in this By-Law shall be deemed to authorize any fire, burning or other act that is in contravention of the *Environmental Protection Act, the Forest Fires Prevention Act*, R.S.O. 1990, c.F.24, the *Fire Protection and Prevention Act, 1997*, or other federal or provincial statute, or any regulation made thereunder. In the event of any conflict between the provisions of the By-Law and said Act or Acts or Regulations, the said Act or Acts or Regulations made thereunder shall govern. In the event of any conflict between the provisions of the By-Law and any other municipal By-Law, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

Prohibition - Setting Fires

5. No person shall set a fire in the Township unless the fire is a permitted fire in accordance with this By-Law.

Training or Demonstration Fire

6. (a) For the purpose of the By-law, a training or demonstration fire is a fire which is set in the Township for the purpose of demonstrating firefighting equipment or as a training exercise.

(b) The Fire Chief is authorized to give consent for the setting of a demonstration or training fire.

Permitted Fires

7. For the purpose of this By-Law, a permitted open air fire is a fire;
 - (a) set in a burn barrel and otherwise in accordance with *Section 14*;
 - (b) which is a campfire and otherwise in accordance with *Section 15*;
 - (c) set in an exterior fireplace and otherwise in accordance with *Section 16*;
 - (d) set in a portable device and otherwise in accordance with *Section 17*;
 - (e) which is a brush fire in a pile, authorized by a burn permit and otherwise in accordance with *Section 18*; or
 - (f) which is a fire for land clearing operations by Eligible Farmers, authorized by a burn permit and otherwise in accordance with *Section 19*.

Open Air Burning Bans

8. (a) The Fire Chief may declare Open Air Burning Ban at any time when in his opinion it is in the interest of public safety to do so.
- (b) Notwithstanding *Section 8(a)* , the Fire Chief, when satisfied of the need, may authorize an Open Air Burn during the time period when an Open Air Burning Ban has been imposed.
- (c) The Fire Chief shall inform Council of his decision of declaring a fire ban as soon as possible.

PART 3 - GENERAL PROHIBITIONS - PERMITTED FIRES

Consent of a Registered Owner

9. (a) No person shall set or maintain a permitted fire on any property in the Township unless:
 - (i) the person setting or maintaining the fire is the registered owner of the property on which the fire is set;
 - (ii) at least one registered owner of the property or his or her authorized designate is present at the site of the fire from the time fire is set until the fire is fully extinguished; or
 - (iii) the person setting or maintaining the fire has the written consent of at least one registered owner of the property on which the fire is set, to the setting of a fire of that type on the property.
- (b) No person shall authorize or permit a person to set or maintain a fire on his or her property unless such person is a responsible person of legal age and has the ability to control the fire and prevent its spread.
- (c) No person, having the written consent of a registered owner to setting a permitted fire on the property of the registered owner, shall fail to:
 - (i) keep the written consent at the location of the fire; or
 - (ii) produce the written consent upon request by a By-Law Enforcement Officer or the Fire Chief.

Person in Charge

10. (a) No person having started a permitted fire, and, if the person who started the permitted fire is not present, no person in charge of a fire, shall fail to take all necessary steps to control the fire, prevent its spread and fully extinguish the fire before leaving the site.

- (b) No person, having set a permitted fire, or being left in charge of a permitted fire, shall leave another person in charge of the fire unless such person is a responsible person, of legal age, able to control the fire and comply with the requirements of this By-Law.

Prohibited Materials for Burning

- 11. No person shall burn or permit to be burned in a permitted fire any:
 - (a) kitchen garbage;
 - (b) construction material;
 - (c) materials made of or containing rubber;
 - (d) materials made of or containing plastic;
 - (e) tar; or
 - (f) wet material

Prohibited Conditions

- 12. No person shall set or maintain a permitted fire in the Township in a location or in conditions likely to cause or result in:
 - (a) a decrease in visibility on any highway or roadway from smoke;
 - (b) inconvenience or irritation to others from smoke or fumes;
 - (c) the spread of the fire due to grass or other vegetation, proximity of any combustible material or other reason;
 - (d) a spread of the fire through adjacent grass, brush, forested area; or
 - (e) the endangerment of his or her own property or the endangerment of property of any other person.

Proper Disposal of Fireplace Ashes

- 13. No person shall dispose of fireplace ashes unless such person ensures all of the following conditions are met:
 - (a) discarded fireplace ashes shall be moisten and placed in a heavy metal container covered with a metal lid;

- (b) ashes shall be kept in a metal container outside, away from the house, until they have had at least four days to cool;
- (c) great care should be given in selecting a dump site. Wooded areas should always be avoided.

PART 4 - PROHIBITIONS – SPECIFIC TYPES OF PERMITTED FIRES

Fire in a Burn Barrel

14. No person shall set a fire in a burn barrel unless such person ensures all of the following conditions are met:
- (a) the burn barrel:
 - (i) is in good condition;
 - (ii) is situated securely on level ground;
 - (iii) is located at least three (3) meters from any building or structure; and
 - (iv) is located at least five (5) meters from any forest or woodland;
 - (b) all openings in the burn barrel are entirely covered by metal wire mesh;
 - (c) the person burns only grass, leaves, brush, wood or wood by-products in the burn barrel; and
 - (d) the person sets and maintains the fire in the burn barrel only during daylight hours unless; such person has the prior written consent of the Fire Chief to set or maintain the fire in the burn barrel during any other time.

Campfire

15. No person shall set or maintain a campfire unless the person ensures all of the following conditions are met:
- (a) the campfire is contained within an area completely surrounded by a non-combustible barrier of metal, masonry, ceramic or stone or is contained within a pit in the ground;
 - (b) the diameter of the campfire area in *paragraph 15(a)* does not exceed one (1) cubic meter;
 - (c) the campfire is located at least:
 - (i) three (3) meters from any building or structure; and
 - (ii) five (5) meters from any forest or woodland;

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- (d) the campfire contains no more than one (1) cubic meter of material to be burned at any one time;
- (e) the person burns only dry clean wood. A minimal amount of paper may be used to start the fire in order to limit the emission of embers;
- (f) flammable liquids shall never be used to start a fire ;
- (g) the person tending the campfire has tools or water adequate to contain the fire within the campfire area; and
- (h) the campfire must not take place when winds are present or when weather conditions cause smoke to remain low. At no time must smoke interfere with the ability of the neighbors to enjoy their properties or conduct their business without disruption. If these conditions occur or if the person or the Fire Department receives a complaint from a neighbor, the person must immediately extinguish the fire.

Fire in exterior fireplaces

16. No person shall set or maintain a fire in an exterior fireplace unless the person ensures all of the following conditions are met:
- (a) the exterior fireplace:
 - (i) is not located on any combustible surface;
 - (ii) is in good working order; and
 - (iii) manufacturer's instructions must be followed when using the exterior fireplaces, in as long as they don't contravene with this by-law.
 - (b) the fire is confined to the exterior fireplace ; and
 - (c) the person burns only clean dry wood or charcoal in the exterior fireplace.

Heating During Construction

17. No person may set or maintain fire in a portable appliance during a construction or maintenance process unless the person ensures all of the following conditions are met:
- (a) the portable appliance is designed and used for the heating of a material during a construction or maintenance process;
 - (b) the portable appliance is used in accordance with manufacturer's instructions; and
 - (c) the portable appliance is in good working order.

Brush Fire - Permit

18. (a) No person shall set or maintain a brush fire without a valid burn permit issued in accordance with this By-Law.
- (b) Brush fire must be lit between sunrise and noon (12:00 p.m.) only.
- (c) Prior to igniting the fire, the Permit holder must call the East Hawkesbury Fire Dispatch between 8:30 a.m. and noon (12:00 p.m.) in order to activate the Permit. The permit must be on site and available for inspection at all times.
- (d) Brush fire shall not be permitted between June 1st and October 1st
- (e) Brush fire shall not be permitted when the wind exceeds 20 kph, when the wind direction is changing frequently or when the burn decreases visibility on any highway or roadway.
- (f) Brush fire shall not be permitted if it causes smoke or odour to such an extent as to cause discomfort to persons residing in the immediate area.
- (g) An authorized person shall be in attendance at all times during the brush fire, and must supervise burn until it is completely extinguished.
- (h) No person holding a valid burn permit for a brush fire, shall set or maintain a brush fire unless he or she ensures all of the following conditions are met:
- (i) The fire is set and maintained at a distance of no less than thirty (30) meters, or such greater distance as may be specified in the burn permit from:
 - (I) the nearest building or other combustible structure; and
 - (II) any overhead wires;
 - (ii) The materials to be burned in the fire shall be in a pile that does not exceed two (2) meters in length, two (2) meters in width, and two (2) meters in height; except for eligible farmers;
 - (iii) only clean dry brush, branches, wood products and natural organic material may be burned;
 - (iv) petroleum products, plastics, rubber, painted lumber, pressure treated or creosote treated lumber, domestic, industrial & agricultural waste, animal carcasses or any other material that will cause excessive smoke or noxious fumes must not be mixed with or contaminate the wood or brush that may be burned (*Schedule D/ Environmental Protection Act, Section 14.*)

- (v) The person in charge shall be equipped with sufficient water and tools to control and/or extinguish the fire and must have a means of contacting the East Hawkesbury Fire Department in case of emergency;
- (vi) The fire is compliant with all conditions and restriction imposed by the burn permit or imposed as a result of a fire prevention inspection conducted by the Fire Chief.

Burning in piles by Eligible Farmers - land clearing operations

19. The following conditions apply to farming operations only and will be used to regulate the burning of large piles (greater than 2 cubic metres), arranged during land clearing operations. Permits are valid for the calendar year issued.
- (a) No person shall set or maintain this type of fire without a valid burn permit issued in accordance with this By-Law.
 - (b) Piles must be lit between sunrise and noon (12:00 p.m.) only.
 - (c) Prior to igniting the fire, the Permit holder must call the East Hawkesbury Fire Dispatch between 8:30 a.m. and 12:00 p.m. in order to activate the Permit. The permit must be on site and available for inspection at all times.
 - (d) Burning shall not be permitted between June 1st and October 1st.
 - (e) Burning shall not be permitted when the wind exceeds 20 kph, when the wind direction is changing frequently or when the burn decreases visibility on any highway or roadway.
 - (f) Burning shall not be permitted if it causes smoke or odor to such an extent as to cause discomfort to persons residing in the immediate area.
 - (g) An authorized person must be in attendance at all times during the fire, and must supervise burn until it is completely extinguished.
 - (h) No person holding a valid burning permit, shall set or maintain a fire unless she or he ensures all of the following conditions are met:
 - (i) the fire is set and maintained at a distance of no less than ninety metres (300) feet from any building, hedge, fence, roadway, overhead wires or obstruction of any kind;
 - (ii) material to be burned must be placed in piles in a tilled or bare field free of vegetation and combustible materials;
 - (iii) no more than five (5) piles can be burned at a single time;
 - (iv) a minimum distance of 10m must be maintained between piles;
 - (v) Only clean dry brush, wood products and natural organic material may be burned;
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(vi)	petroleum products, plastics, rubber, painted lumber, pressure treated or creosote treated lumber, domestic, industrial & agricultural waste, animal carcasses or any other material that will cause excessive smoke or noxious fumes must not be mixed with or contaminate the wood or brush that may be burned (<i>Schedule D/ Environmental Protection Act, Section 14.</i>)
(vii)	the person in charge shall be equipped with sufficient water and mechanical equipment to control and/or extinguish the fire and must have a means of contacting the East Hawkesbury Fire Department in case of emergency. Equipment must be on site while burning is carried out. (i.e. front loader, backhoe, shovel)
(viii)	Permit holders must ensure that Officers have full access to the land upon which the burn is conducted at all times during the activation of the Permit,
(ix)	the fire is compliant with all conditions and restriction imposed by the burn permit or imposed as a result of a fire prevention inspection conducted by the Fire Chief.

PART 5 - BURN PERMITS

Issuer of permits

20. The Fire Chief or his alternate is authorized to issue burn permits for brush fires and burning in piles by Eligible Farmers during land clearing operations.

Request for Burn Permit

21. (a) Any person in the Township who wishes to obtain a burn permit for a brush fire or burning by Eligible Farmers shall make a request for a burn permit by contacting the Fire Services Department at (613) 674-2170 at least three (3) full working days prior to the day on which the applicant wishes to set the fire. For the purposes of this Section, "working day" shall mean a day that the Township office is open for business.
- (b) The applicant for a burn permit shall provide all of the information and such other documentation or materials as may be requested by the Fire Chief prior to obtaining the burn permit.

Issuing a Burn permit

22. (a) The Fire Chief shall review the request for a burn permit and the documentation or materials filed with the request and shall:
- (i) approve the request and issued the burn permit to the applicant;

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- (ii) conditionally approve the request subject to such restrictions, regulations or conditions as the Fire Chief in his or her sole discretion considers advisable; or
 - (iii) refuse to approve the request.
- (b) Where the Fire Chief refuses to approve a request for a burn permit, he or she shall advise the applicant in writing that the request has been refused. The written notice shall be served personally or mailed by prepaid mail to the applicant at the address provided by the applicant.
- (c) The Fire Chief shall record on the burn permit:
 - (i) the name of the owner of the land and contact information;
 - (ii) the municipal address of the property at which the fire may be set and if there is no municipal address for the property, a description for the purposes of identifying the property at which the fire may be set;
 - (iii) the proposed date of the fire and its duration;
 - (iv) the methods of extinguishment at fire site;
 - (v) the name of the person in charge at the fire site;
 - (vi) whether the fire authorized by the burn permit is a brush fire or burning by eligible farmers during land clearing operations;
 - (vii) the restrictions, regulations or conditions to which that burn permit is subject; and
 - (viii) a statement that the burn permit is conditional upon compliance with the terms set out in the burn permit, this by-law, and applicable legislation.
- (d) The Fire Chief shall issue a burn permit by signing it and releasing it to the applicant.

Burn Permit

- 23. (a) Any burn permit issued under this by-law is personal to the permit holder, and shall not be transferred or assigned.
- (b) No person shall enjoy a vested right in the continuance of any burn permit.
- (c) A burn permit remains the property of the Township at all times.
- (d) A burn permit shall be valid only for the period of time for which it was issued and shall expire on the date or in the manner specified in the burn permit.

Permit Holder

24. (a) No person holding a burn permit shall set or maintain a fire under the authority of the burn permit, except in accordance with the terms and conditions of the burn permit and this by-law.
- (b) The holder of a burn permit shall keep the burn permit at the site of the fire authorized by the burn permit.
- (c) The holder of the burn permit shall produce the burn permit for examination upon request by the Fire Chief or a By-Law Enforcement Officer.

Revocation of Permit

25. (a) The Fire Chief may, at any time, in his or her sole discretion, revoke any burn permit if he or she reasonably believes that:
- (i) any of the information provided to obtain the permit is not accurate;
 - (ii) a term or condition of the burn permit is not being observed;
 - (iii) the fire will not be or is not being conducted in a fashion which observes all reasonable safety precautions or is otherwise a risk to person or property; or
 - (iv) there are any other grounds to terminate the burn permit, which the Fire Chief in his or her sole discretion considers sufficient in the circumstances.
- (b) Every burn permit shall be automatically revoked without further action by the Fire Chief in the event that:
- (i) a restricted fire zone is declared under the *Forest Fire Prevention Act* which affects the Township; or
 - (ii) the Fire Chief declares a fire ban in the Township or the part of the Township to which the burn permit applies; pursuant to the *Fire Protection and Prevention Act, 1997*.
- (c) Any person who holds a burn permit, which has been revoked, shall surrender the same to the Fire Chief or a By-Law Enforcement Officer upon request.

PART 6 - ENFORCEMENT AND RECOVERY OF COSTS

Enforcement – Limitation

26. No person shall obstruct, hinder or in any way interfere with any person designated to enforce this By-Law.

Right of Entry

27. Upon producing proper identification, a By-Law Enforcement Officer or the Fire Chief may, at all reasonable times enter upon and inspect any property to determine if there is a contravention of this by-law and to enforce or carry into effect the by-law.

Extinguishing Any Fire

28. (a) The Fire Chief may direct a person to extinguish any fire where, in his or her opinion, there is a contravention of this by-law.
- (b) Where the action taken by such person in extinguishing any such fire pursuant to 28(a) is, in the opinion of the Fire Chief not adequate, the Fire Chief may take such action as he or she considers necessary to control and extinguish the fire.

Civil Action

29. Nothing in this by-law affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire.

Offences and Penalties

30. (a) Every person who contravenes any of the provisions of the By-Law is guilty of an offence and upon conviction is liable to a fine as provided in the *Provincial Offences Act, R.S.O. 1990, c P. 33 as amended*.
- (b) In the event of a contravention of any provision of this By-Law, the Township, in addition to any other remedies it may have at law, may enter upon the lands upon which such contravention took place and do such work as is necessary to rectify same, and all expenses incurred in connection therewith shall be recoverable from the owner of the said lands by action or in the same manner as municipal taxes, all as per *Schedule "C"* attached hereto and forming part of this By-Law.
- (c) All fire fees charged pursuant to 30(b) shall be due and payable within thirty (30) days from the date of invoice and late payment shall bear interest at the rate of one and one-quarter (1.25%) percent per month or fraction thereof.

Administration

31. The Fire Chief shall be responsible for the administration of this by-law. Persons who are employed or appointed as By-Law Enforcement Officers and Fire Chief for the Township are all deemed appointed and entitled to enforce the provisions of this by-law.

Severability

32. Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

Miscellaneous

33. Schedules “A”, “B” and “C” shall form part of this By-Law.

Repeal

34. The Township of East Hawkesbury By-Laws No. 99-35 and 2004-35 are hereby repealed.

Effective

35. This By-Law shall come into force and take effect upon final passage by the Council of the Corporation of the Township of East Hawkesbury.

Read a First, Second and Third Time and Passed in Open Council this 8th day of August, 2016.

Robert Kirby, Mayor

Linda Rozon, Clerk

**TOWNSHIP OF EAST HAWKESBURY
BY-LAW NO. 2016-44
SCHEDULE "A"**

BURN PERMIT NUMBER : _____

FIRE DEPARTMENT EMERGENCY NUMBER: 9-1-1

PERMISSION IS HEREBY GRANTED TO:

Name of owner (s): _____ Telephone # _____

Address: _____

Location of the Fire: _____ Lot _____ Conc. _____

Date of Fire: _____ Duration of Fire: From _____ to _____

Methods of Extinguishment of Fire Site: _____

Name of Person in charge at Fire Site: _____ Contact # _____

Type of Fire: Brush Fire _____ Burning in piles, Eligible Farmers _____

Permit Issued by: _____ Date : _____
Fire Chief or his alternate

Permission will not be granted to any person other than the owner of the property where the fire is to occur, save an authorized agent acting on the behalf of the owner who produces written authorization signed and dated by the owner.

THE APPLICANT HAS REVIEWED THE OPEN AIR BURNING BY-LAW AND AGREES TO:

- 1. COMPLY WITH ALL THE PROVISIONS OF THIS BY-LAW.**
- 2. ASSUME ALL RESPONSIBILITY FOR ANY DAMAGES AND/OR SERVICE FEES RESULTING FROM THE OPEN AIR BURNING FOR WHICH THIS PERMIT IS ISSUED.**

Date

Signature of Applicant

ADDITIONAL COMMENTS, RESTRICTIONS OR CONDITIONS:

(If "Eligible Farmer", state Farm Association Name and Registration Number)

BY-LAW NO. 2016-44
SCHEDULE "B"

FEE SCHEDULE FOR PERMITS
Section 23

Cost of Burn Permit

No Charge

BY-LAW NO. 2016-44
SCHEDULE “C”

FEE SCHEDULE FOR OFFENCES
Section 30 (b)

In the event of a contravention of any provision of the By-Law , the Township, may enter upon the lands upon which such contravention took place and do such work as is necessary to rectify same, and all expenses incurred in connection therewith shall be recoverable from the owner of the said lands by action or in the same manner as municipal taxes, as follows :	
First hour (or part thereof)	\$ 450.00 per vehicle used
Each additional ½ hour	\$ 225.00 per vehicle used
Where no legitimate service or if a fire response is not required	\$ 450.00 charge
All fees are payable to The Township of East Hawkesbury	
All fees charged pursuant to <i>30(b)</i> shall be due and payable within thirty (30) days from the date of invoice and late payment shall bear interest at the rate of one and one-quarter (1.25%) percent per month or fraction thereof.	
* Rescue vehicle to be accounted as a “vehicle used”	