

**THE CORPORATION OF THE TOWNSHIP OF BROCK**

**BY-LAW NUMBER 3120-2022**

**BEING A BY-LAW TO REGULATE OPEN AIR, RECREATIONAL AND AGRUCULTURAL FIRES WITHIN THE CORPORATION OF THE TOWNSHIP OF BROCK**

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

**WHEREAS** Section 11(3), paragraph 6, of the Municipal Act, 2001, S.O. 2001, c. 25 as amended (hereinafter referred to as the Municipal Act, 2001) authorizes a municipality to pass a By-law respecting the health, safety and well-being of Persons and respecting the protection of Persons and property; and

**WHEREAS** Council is empowered under Section 128(1) of the Municipal Act 2001, S.O. 2001, c. 25., as amended, to pass by-laws to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

**WHEREAS** Section 391.1(a) of the Municipal Act, 2001 provides that a municipality may pass by-laws imposing fees or charges on Persons for services or activities provided or done by or on behalf of it including permit fees for Burn Permits; and

**WHEREAS** the Council of the Corporation of the Township of Brock deems it necessary to regulate open air, recreational and agricultural fires with the Township of Brock.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF BROCK HEREBY ENACTS A BY-LAW AS FOLLOWS:**

**1. Definitions**

- 1.1 **“Approved”** shall mean permission being granted by the Township Fire Chief or his/her Township Designate.
- 1.2 **“Agricultural Burn”** shall mean a Burn Permit for agricultural properties as defined.
- 1.3 **“Agricultural Property”** shall mean a property used for agricultural purposes, specifically the cultivation of the soil and the associated production of field crops, vegetables, fruit, horticultural crops and nursery stock and the limited accessory processing, storage, promotion and selling of such products primarily produced on the farm; the breeding, caring and/or keeping of livestock including horses and bees and the selling of such stock or the product of such stock and the management of woodlands and the sale of related products including fuel wood, Christmas trees and maple products and includes a farm dwelling and accessory buildings and uses.
- 1.4 **“Burn Ban”** shall mean a prohibition on all Open Air, Recreational and Agricultural fires due to an unacceptable fire or health risk to the community resulting from lack of precipitation, poor air quality or for any other such reason, as declared by the Township Fire Chief or his/her Township Designate.
- 1.5 **“Burn Permit”** shall mean permission granted by the Township Fire Chief or his/her Township Designate, in writing, in the appropriate form, and for a

specified time period, to set a fire in the Open Air or in an outdoor fireplace, and is referenced in this By-law as “Permit”, “Open Air Burn Permit”, “Recreational Burn Permit”, or “Agricultural Burn Permit”;

- 1.6 **“Campground”** shall mean a Tourist Camp or Trailer Camp.
- 1.7 **“Council”** shall mean the Council of The Corporation of the Township of Brock.
- 1.8 **“Chimineas”** shall be classified as Open Air Burning and treated as such under Article 2.4.4.4 of the Ontario Fire Code.
- 1.9 **“Clay Pots”** shall be classified as Open Air Burning and treated as such under Article 2.4.4.4 of the Ontario Fire Code.
- 1.10 **“Ceramic Pots”** shall be classified as Open Air Burning and treated as such under Article 2.4.4.4 of the Ontario Fire Code.
- 1.11 **“Nuisance”** shall mean excessive smoke, smell, airborne sparks or embers that are likely to disturb others.
- 1.12 **“Open Air”** shall mean any open place, yard or field which is not enclosed by a building structure as defined by the Building Code Act, 1992, S.O. 1992, c. 23, as amended, or an approved appliance.
- 1.13 **“Open Air Burning”** shall mean the burning of materials such as clean wood, tree limbs, brush, farm vegetation where the flame is not wholly contained. “Open Air Burning or “Burn in the Open Air” shall have the same meaning.
- 1.14 **“Outdoor fireplace”** shall mean a manufactured or other non-combustible enclosed container with a spark arrestor designed to hold a small fire for decorative purposes, the size which is no larger than 1 meter in any direction.
- 1.15 **“Owner”** shall mean the Person holding registered title to the land, and/or lessee, tenant, occupant, mortgagee in possession, or any Person occupying or having care and control of the land.
- 1.16 **“Permit Holder”** shall mean the Person named on the permit and includes the Owner.
- 1.17 **“Person”** shall mean any individual, firm, corporation, association, partnership, trust organization, trustee or agent and the heirs, executors, administrators and other legal representatives of a Person to whom the context can apply according to law and includes the owner of the land where the fire was set.
- 1.18 **“Public property”** includes the property owned or occupied by the Township, or any other corporation of a metropolitan, regional or district municipality, a county, city, town, village, township or improvement district including a local board thereof, a commission, a conservation authority, the Province of Ontario, the Dominion of Canada, including any agency thereof.
- 1.19 **“Recreational Burn”** shall mean a fire contained to an outdoor fireplace.
- 1.20 **“Refuse”** shall mean any article, thing, matter or any effluent belonging to or associated with a house or household, any industry, trade or business, and without limiting the foregoing, may include:
  - a) Accumulations, deposits, remains, rubbish or trash.
  - b) Litter, including paper, cartons, newspapers, flyers, cardboard, and/or packaging.

- c) Machinery and machinery equipment and/or parts, including vehicular parts and/or accessories, tires, furnaces and/or furnace parts, pipes, and/or pipe fittings, water tanks, fuel tanks, and/or septic tanks, tubing, conduits, cable fittings and/or other accessories.

- 1.21 **“Township”** shall mean The Corporation of the Township of Brock.
- 1.22 **“Township Designate”** shall mean a Person who is an employee of the Township, and who has been appointed by Council to administer and/or enforce all or part of this By-law on behalf of the Township, and shall include the Township Fire Chief or his/her Township Designate, and all assistants to the Fire Marshal employed or appointed to the Township’s Fire Department.
- 1.23 **“Urban Area”** shall mean Beaverton, Cannington and Sunderland as demarcated within the Township of Brock Official Plan, or those lands within the hamlets of Gamebridge, Port Bolster, Wilfrid, Manilla and Sonya.

## **2. Scope and Application**

- 2.1 This By-law shall apply to all land within the Township of Brock.
- 2.2 Where a provision of the By-law conflicts with a provision of another By-law in force and effect in the Township, the provision that establishes the higher standard shall prevail in order to protect the health, safety and welfare of the general public.

## **3. Permit**

- 3.1 The Township Fire Chief or his/her Township Designate may issue a permit with or without conditions, refuse a permit, and/or revoke a permit.
- 3.2 No Person shall set, allow to burn or maintain an Open-Air Burn, a Recreational Burn and/or an Agricultural Burn without a permit.
- 3.3 No Person shall set, allow to burn or maintain an Open-Air Burn, a Recreational Burn and/or an Agricultural Burn to burn refuse.
- 3.4 No Person shall set, allow to burn or maintain an Open-Air Burn, a Recreational Burn and/or an Agricultural Burn when rain or fog is present.
- 3.5 No Person shall set, allow to burn or maintain an Open-Air Burn, a Recreational Burn and/or an Agricultural Burn when the wind is blowing with a velocity of 24 kilometers per hour or greater, or with such intensity or in such a direction that fire may cause:
  - a) Decreased visibility on any highway.
  - b) Odour that may cause discomfort to Person(s) residing in the immediate area.
  - c) The possible spread of fire through a grass or brush area.
  - d) The possible spread of fire to neighbouring buildings or properties.
  - e) The spread of fire due to lack of precipitation within the boundaries of the Township for a period to the date of the application for permit.
  - f) A nuisance.
- 3.6 A Burn Permit requires that the Permit Holder:
  - a) To be responsible for the fire, and always remain in attendance in a supervisory capacity, until the fire is completely extinguished.
  - b) To ensure that an adequate means of extinguishing the fire be available at the site of the fire, always.
  - c) To ensure that there is no less than three (3) meter perimeter around the fire, that is free and clear of all combustible material.
  - d) To comply with any and all conditions contained in the Permit.

- e) To produce the Permit to the Township Fire Chief or his/her Township Designate, on demand.
- f) To burn only while the Permit is in effect, and/or only on the day(s) as specified by the Permit.

#### **4. Issuance of Permit**

- 4.1 No person shall conduct or allow to be conducted on lands owned or occupied by such person, any Open-Air Burn, Recreational Burn, or an Agricultural Burn within the Township of Brock without first having obtained a burn permit issued in a form as determined by the Township Fire Chief or his/her Township Designate.
- 4.2 Prior to the issuance of an Open-Air Burn, Recreational Burn, or an Agricultural Burn permit, the applicant shall pay the fees prescribed in respect of such permit by the Township of Brock By-law to Establish Fees.
- 4.3 Notwithstanding the provisions of this By-law, a Permit is not required where:
  - a) The Open-Air burn consists of a small confined fire that is used to cook food on a grill, barbeque or spit, commensurate with the type and quantity of food being cooked, and always supervised.
  - b) An appliance is used that meets the requirements of the Technical Standards and Safety Act, 2000, S.O. 2000 c. 16, as amended, is for outdoor use and has been assembled and/or installed in accordance with the manufacturer's instructions.
- 4.4 Notwithstanding, and in addition to the provisions of section 9, 10, 11 of this By-law, the Township Fire Chief or his/her Township Designate may issue a Permit subject to conditions, including but not limited to:
  - a) Requiring the supervision of the fire by the Township Fire Chief or his/her Township Designate, at the sole cost of the Permit Holder.
  - b) Restricting the size of the burn material.
  - c) Specifying conditions to reduce or contain the risk of fire spreading.

#### **5. Refusal**

- 5.1 The Township Fire Chief or his/her Township Designate may refuse to issue a Permit where the request does not comply with the provisions of this By-law.

#### **6. Revocation of Permit**

- 6.1 The Township Fire Chief or his/her Township Designate may revoke a Permit issued pursuant to this By-law if the Permit Holder fails to comply with:
  - a) Any of the conditions upon which the Permit was issued.
  - b) Any law applicable to the disposal of waste materials resulting from the burn.
  - c) Any of the provisions of this By-law.
  - d) The Permit was issued in error, or as a result of mistaken, false or incorrect information.
  - e) For any other purpose, as deemed fit by the Township Fire Chief or his/her Township Designate.
- 6.2 If the Township Fire Chief or his/her Township Designate, is of the opinion that the continued burning of the Open-Air Burn, Recreational Burn or Agricultural Burn is a hazard, the Township Fire Chief or his/her Township Designate, may direct the fire to be extinguished.
- 6.3 Every Person directed to extinguish a burn shall immediately extinguish the fire/burn.

## **7. Expiry of Permit**

- 7.1 Unless otherwise stipulated in writing by the Township Fire Chief or his/her Township Designate, a Permit, issued pursuant to this By-law, shall expire at 11:59 p.m. on the 31<sup>st</sup> day of December of the year the permit was originally issued.

## **8. Open Air Burn in the Urban Area**

- 8.1 Open Air Burning is not permitted in the Urban Area.

## **9 Open Air Burn in the Rural Area**

- 9.1 An Open-Air Burn Permit is permitted only for the rural area on lot sizes that are one half (1/2) acre or greater in size.
- 9.2 An Open-Air Burn Permit only permits burning of dry wood, or wood by-products.
- 9.3 An Open-Air Burn Permit does not permit the burning of refuse, grass clippings or leaves.
- 9.4 An Open-Air Burn Permit requires that:
- a) The size of the fire must not exceed 3 metres x 3 metres x 3 metres/27 cubic metres or (9.8 feet x 9.8 feet x 9.8 feet) in size.
  - b) Must be a minimum radius of 7.5 metres (24.5 feet) around burn site clear of vegetation.
  - c) Burning only occur during the following:
    - i) From 8:00 a.m. to 8:00 p.m., between the first day of May and the last day of September.
    - ii) From 8:00 a.m. to 5:00 p.m., between the first day of October and the last day of April.
  - d) A fire be set or maintained at least fifteen (15) metres (50 feet) away from all structures, trees, hedges, fence, property line, street/road/highway or overhead wires.

## **10. Recreational Burn Permit**

- 10.1 A Recreational Burn Permit is permitted for residential properties and a campground.
- 10.2 A Recreational Burn Permit only permits burning of dry, seasoned firewood.
- 10.3 A Recreational Burn Permit does not permit the burning of refuse, grass clippings or leaves.
- 10.4 A Recreational Burn Permit requires that:
- a) All fires be contained within an Outdoor Fireplace and must not exceed 1 metre x 1 metre x 1 metre/1 cubic metre or (3 feet x 3 feet x 3 feet) in size.
  - b) The Outdoor Fireplace be located on concrete, patio slabs, stone or other such non-combustibles material.
  - c) A fire be set or maintained at least six (6) metres (18 feet) away from all structures, trees, hedges, fence, property line, street/road/highway or overhead wires (hydro lines).
  - e) Burning only occur during the following:
    - i) From 6:00 p.m. to 1:00 a.m., between the first day of May and the last day of October.

- ii) From 1:00 p.m. to 12:00 p.m., between the first day of November and the last day of April.

10.5 The owner of a campground shall obtain a permit for a recreational burn within the designated campground.

## **11. Agricultural Burn Permit**

11.1 An Agricultural Burn Permit is permitted only for Agricultural Properties.

11.2 An Agricultural Burn Permit only permits burning of wood or wood by-products.

11.3 An Agricultural Burn Permit does not permit the burning of refuse.

11.4 An Agricultural Burn Permit requires that:

- a) The size of the burn must not exceed 6 meters x 6 metres x 6 metres/216 cubic metres or (19.7 feet x 19.7 feet x 19.7 feet).
- b) Must be a minimum radius of 7.5 metres (24.5 feet) around burn site clear of vegetation.
- c) Burning only occur during the following:
  - i) From 8:00 a.m. to 5:00 p.m., between Monday to Saturday, excluding statutory holidays.
  - ii) As specified in the Agricultural Burn Permit.
- d) A fire be set or maintained at least fifty (50) metres (150 feet) away from all structures, trees, hedges, fence, property line, street/road/highway or overhead wires.
- e) Must be located on at least 10 acres of land.
- f) Adequate means of controlling and extinguishing the fire, including heavy equipment, are available at the site always during the fire.

## **12. Administration and Enforcement**

12.1 The Township Fire Chief or his/her Township Designate shall be responsible for the administration and enforcement of this By-law.

12.2 Every Person who sets a fire in contravention of this By-law, fails to extinguish a fire once ordered to do so by the Township Fire Chief or his/her Township Designate, in addition to any penalty provided for herein, shall be liable for all expenses incurred for the purposes of investigating, controlling and/or extinguishing any fire set or left to burn.

12.3 Any Person who:

- a) Burns or allows the burning of an Open-Air Burn, Recreational Burn or an Agricultural Burn contrary to the provisions of this By-law; or
- b) Fails to extinguish an Open-Air Burn, Recreational Burn or an Agricultural Burn upon direction from the Township Fire Chief or his/her Township Designate,

shall, in addition to any penalty provided for herein, be liable to the Township for any expenses incurred for the purpose of controlling and/or extinguishing the Open-Air Burn, Recreational Burn or Agricultural Burn.

12.4 The owner of the land where the fire was set shall be responsible for any penalty provided for herein and shall be liable for all expenses incurred for the purposes of investigating, controlling and/or extinguishing any fire set or left to burn.

- 12.5 Any such expenses as established in Section 13, may be recovered by addition of the same amount owing to the tax roll, and collected in the same manner and with the same priorities as municipal real property taxes.
- 12.6 Notwithstanding any provision contained in this By-law, no Person shall set or maintain:
- a) An Open Air, Recreational or Agricultural fire on any highway, or in any park, or on public property.
  - b) An uncontained Open Air or Agricultural burn including but not limited to, a grass fire.
  - c) An Open Air, Recreational or Agricultural Burn when the Township Fire Chief or his/her Township Designate, has ordered that it not be set, or that it be extinguished.
  - d) An Open Air, Recreational or Agricultural Burn when a Burn Ban is in effect.
- 12.7 Notwithstanding any provision of this By-law, no Person shall set or maintain an Open Air or Agricultural burn for the purpose of demolishing a building or structure, except in accordance with a Permit issued by the Chief Building Official, pursuant to the Building Code Act, 1992, S.O. 1992, c.23, and the provisions of this By-law.

### **13. Offence and Penalty**

- 13.1 Every Person or Owner who:
- a) Contravenes any provisions of this By-law, or
  - b) Furnishes false information in the application for a permit under this By-law,
- is guilty of an offence, and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.

### **14. Severability**

- 14.1 Should any section, subsection, clause, paragraph or provision of this By-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the provision so declared to be invalid.

### **15. Short Title**

- 15.1 This By-law may be cited as the Burning By-law

### **16. Force and Effect**

- 16.1 This by-law shall come into force and effect on the date of it is enacted by the Council of the Corporation of the Township of Brock.
- 16.2 That By-law 2915-2019 and all amendments thereto are hereby repealed.

**ENACTED AND PASSED THIS 25th DAY OF APRIL 2022.**

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John Grant, Mayor

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Fernando Lamanna, Clerk/Deputy CAO

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