

THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

BY-LAW NO. 23-2014

Being a By-law to regulate the setting of open air fires, including the times during which open air fires may be set.

(Open Air Burning By-law)

WHEREAS Section 7.1 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 otherwise regulating fire prevention including the prevention of the spreading of fires;

AND WHEREAS the Council of the Corporation of the Municipality deems it advisable to exercise the authority conferred by the said Act within the Municipality of Thames Centre;

NOW THEREFORE the Council of The Corporation of the Municipality of Thames Centre hereby **ENACTS AS FOLLOWS:**

1. **SHORT TITLE**

The short title of this By-law shall be **OPEN AIR BURNING BY-LAW.**

2. **DEFINITIONS**

“Council” means the Council of the Municipality of Thames Centre.

“Fire” means the phenomenon of combustion manifested in light, flame, heat and most often results in smoke.

“Open Air Burn” means a burn that is exposed to the atmosphere and/or is not wholly enclosed in a container.

“Controlled Burn” means a burn that has been authorized, in writing, by the Thames Centre Fire Chief and is under the control of the Fire Department.

“Controlled Burn Permit” means the completed application submitted to the Municipality for a controlled burn and approved by the Fire Chief or his/her designate.

“Fire Chief” means the person appointed by by-law of the Council of the Municipality to act as Fire Chief, or his/her designate.

“Fire Department” means the Fire Department of the Municipality of Thames Centre.

“Designate” means the District Chief, Chief Administrator Officer and/or By-law Enforcement Officer for the Municipality of Thames Centre.

“Owner” means the registered owner of a property or premises and includes the person managing or receiving the rent of the land or premises whether on his own account or as an agent or trustee of any other person who would so receive the rent if such land and premises were otherwise let.

“Municipality” means the Municipality of Thames Centre.

“Tenant” means the occupant having possession or person having control of a property or premises.

“Restricted Area” means the areas within the boundaries of the Municipality of Thames Centre that are defined on the attached Schedule “A”.

“Non-Restricted Area” means all the lands within the boundaries of the Municipality of Thames Centre except those which are not defined on the attached Schedule “A”.

“Permit” means Controlled Burn Permit.

“Person” means any individual, association, firm, partnership, corporation, agent, or trustee and their heirs, executors, or other legal representatives of such person.

3. **RESTRICTED AREAS**

- (a) No person shall set an open air burn in any residential, commercial or industrial zone within the designated restricted area in Schedule "A" attached hereto and forming a part of this By-law.
- (b) No person shall burn leaves, brush, refuse or household garbage within the designated restricted areas identified in the attached Schedule "A".
- (c) Within the designated restricted areas identified in the attached Schedule "A"; no person shall set an open air burn or controlled burn or maintain such an open air burn when the wind is in such a direction or intensity so as to cause any or all of the following:
 - (i) Decrease in visibility on any highway, street or concession;
 - (ii) Any odour or smoke to such an extent or degree so as to cause discomfort to persons;
 - (iii) Cause loss of enjoyment of normal use of property in the immediate area; and
 - (iv) A rapid spread of fire through grass or a brush area.
- (d) Notwithstanding the provisions of Section 2(a) hereof, open air burns may be set when such burning consists of a small confined fire, supervised at all times, and is used to cook food on a grill or a barbecue, or is for personal warmth. These fires must be contained within non-combustible containers or pits specifically designated for open air burns.

The following regulations shall apply with respect to open air burnings for recreational purposes:

- (i) no materials other than commercially produced charcoal, briquets or clean, dry seasoned wood shall be burned;
 - (ii) open burnings shall be confined to non-combustible containers or to a pit no larger than two (2) feet (61 centimetres) by two (2) feet (61 centimetres) in size;
 - (iii) open burning shall be conducted in such a manner as to preclude the escape from the fire of combustible solids such as sparks and ash;
 - (iv) the dimensions of the fuel being burnt shall not be greater than the size of the container or fire pit and shall be totally confined within the container or pit at all times;
 - (v) an open air burning shall be confined to a location that provides for a minimum distance of 4 metres in all directions from adjacent properties;
 - (vi) open air burnings shall be confined to an area that is a minimum of 3 metres from combustible structures or objects;
 - (vii) an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use;
 - (viii) open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the open air burn site is vacated; and
 - (ix) open air burnings are not permitted when the wind speed exceeds 15 kilometres per hour or during rainy or foggy weather or at times when a smog alert has been declared. The appropriate Federal and/or Provincial Government agency shall be used as the source for this information.
- (e) Open air burns in the restricted area may be subject to extinguishment under the discretion of the Fire Chief or his/her designate and the owner/tenant shall be liable for any costs incurred by the Fire Department, including personnel, equipment and apparatus necessary and called in to investigate and extinguish the said fire if the fire is determined to be contrary to this By-law.

4. **NON-RESTRICTED AREAS**

- (a) Open air burning in non-restricted areas of the Municipality of Thames Centre shall be subject to the following conditions:
- (i) Materials to be burned shall be limited to wood or by-products of wood excluding construction materials, household garbage, and asphalt shingles; and
 - (ii) No person, including the property owner, shall set or allow to be set, a controlled burn, including but not limited to a grass fire, without a permit as per Section 4 below.

The following regulations shall apply with respect to open air burnings of brush and dry seasoned wood in the non-restricted area:

- (iii) open air burnings shall be conducted between the hours of 8:00 a.m. to dusk only;
 - (iv) no materials other than dry brush and dry seasoned wood shall be burned;
 - (v) open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated;
 - (vi) open air burnings are not permitted during rainy or foggy weather or when a smog advisory has been issued by the appropriate Federal and/or Provincial Government Agency;
 - (vii) an open air burning shall be confined to an area which is at least 45 metres (150 feet) from any building, highway, road, or a wooded area; and
 - (viii) steps must be taken to ensure that smoke caused by an open burn does not have a negative impact the visibility of motorists using roads in the vicinity of the burn.
- (b) All persons setting a controlled burn shall:
- (i) Be responsible for any damage to property or injury to persons occasioned by the said fire;
 - (ii) Be liable for costs incurred by the Fire Department, including personnel, equipment and apparatus necessary and called in to investigate or extinguish the said fire. Penalty provisions of Clauses 14 and 15 may also be applicable;
 - (iii) Ensure the means of extinguishing the fire designated on the permit form is available at the site at all times during the fire; and
 - (iv) Apply for and receive a Controlled Burn Permit.

A farmer who intends to set or maintain an open air burn for disposal of vegetable matter or vegetation on farm lands which is normal and incidental for farming purposes shall apply for a Controlled Burn Permit and shall ensure that the smoke does not adversely affect neighbouring property owners.

- (c) No person shall set an open air burn or controlled burn or maintain such a burn when the wind is in such a direction or intensity so as to cause any or all of the following:
- (i) Decrease in visibility on any highway, street or concession;
 - (ii) Any odour or smoke to such an extent or degree so as to cause discomfort to persons;
 - (iii) Cause loss of enjoyment of normal use of property in the immediate area; and
 - (iv) A rapid spread of fire through grass or a brush area.

(d) Open air burning shall be subject to compliance of any regulations pertaining to the *Ontario Fire Marshall Act* and regulations thereto.

5. A controlled burn may be permitted anywhere in the Municipality of Thames Centre only by permission and under the direct control of the Municipality of Thames Centre Fire Department. A controlled burn may be permitted by the Fire Chief or his/her designate subject to the issuance of a Controlled Burn Permit.
6. Permission is granted for open air burnings that are contained within non combustible containers or pits specifically designed for open air burnings.

The following regulations shall apply with respect to open air burnings for recreational purposes:

- (i) no materials other than commercially produced charcoal, briquets or clean, dry seasoned wood shall be burned;
- (ii) open burnings shall be confined to non-combustible containers or to a pit no larger than two (2) feet (61 centimetres) by two (2) feet (61 centimetres) in size;
- (iii) open burning shall be conducted in such a manner as to preclude the escape from the fire of combustible solids such as sparks and ash;
- (iv) the dimensions of the fuel being burnt shall not be greater than the size of the container or fire pit and shall be totally confined within the container or pit at all times;
- (v) an open air burning shall be confined to a location that provides for a minimum distance of 4 metres in all directions from adjacent properties;
- (vi) open air burnings shall be confined to an area that is a minimum of 3 metres from combustible structures or objects;
- (vii) an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use;
- (viii) open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the open air burn site is vacated; and
- (ix) open air burnings are not permitted when the wind speed exceeds 15 kilometres per hour or during rainy or foggy weather or at times when a smog alert has been declared. The appropriate Federal and/or Provincial Government agency shall be used as the source for this information.

ISSUE OF PERMIT

7. At least twenty-four (24) hours prior to the date upon which it is intended to set a fire, the person intending to set such fire shall complete, sign, and submit an application for a Controlled Burn Permit to the Fire Chief or his or her designate. If the person intending to set the fire is not the owner of the lands and premises upon which the fire is to be set, the application will also be signed by the owner or owners of such lands and premises or his or her authorized legal representative.
8. The Controlled Burn Permit shall be valid for seven (7) days from the date of issue, provided the applicant informs the Fire Chief of the specific day he/she intends to set the approved fire.
9. There will be no fee for the submission of an application for a Controlled Burn Permit referred to in section 7.
10. The Fire Chief or his or her designate shall review the application for a Controlled Burn Permit as referred to in section 6, within a reasonable time after its submission and, if necessary, conduct an inspection of the site of the intended fire and may, thereafter issue a Controlled Burn Permit to the applicant and owner or owners of the said lands and premises authorizing the intended fire to be set and maintained, which permit may also specify the terms and conditions under which such fire is to be set and maintained.

11. A person to whom a Controlled Burn Permit is issued pursuant to this by-law shall set and otherwise maintain such fire in strict compliance with the terms and conditions of that permit, if applicable, this by-law and any other federal, provincial, or municipal statute, regulation, bylaw or other enactment.
12. If the owner or owners of land and premises upon which a fire is to be set and maintained under authority of a Controlled Burn Permit issued pursuant to this by-law is not the person to who such permit was issued, then such owner or owners, in addition to such Permittee, shall be responsible for the conduct of such Permittee in relation to any such permitted fire, including but not necessarily limited to any violation of the terms and conditions of such permit.

ENFORCEMENT

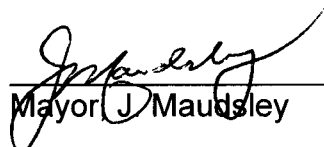
13. The Fire Chief and his/her designate are hereby appointed to enforce the provisions of this By-law.
14. The Fire Chief or his/her designate may, at all times and upon producing proper identification, enter and inspect any property or premises in order to ascertain whether the provisions of this By-law are complied with and to enforce or carry into effect the By-law.
15. A Controlled Burn Permit may be cancelled or suspended at any time by the Fire Chief or his/her designate and immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire.

PENALTY


16. All persons setting an open air burn in the Municipality of Thames Centre contrary to the terms of this By-law at the discretion of the Fire Chief or his/her designate, shall be held:
 - 16.1 responsible for any damage to property or injury to persons occasioned by the said fire; and/or
 - 16.2 liable for the costs incurred by the Fire Department, including personnel, equipment and apparatus necessary and called in to extinguish the said fire in accordance with Schedule "B" attached hereto and forming part of this By-law.
17. Every person who contravenes any provision of this By-law is guilty of an offence, and shall upon conviction be liable to a fine recoverable under the *Provincial Offences Act*.
18. That By-law No. 52-2010 passed by the Council of The Corporation of the Municipality of Thames Centre on the 9th day of August, 2010, is hereby repealed once this by-law comes into force and takes effect.
19. This By-law shall come into full force and take effect upon the receipt of the approval of the Set Fine Schedule applied for under the Provincial Offences Act.

READ a FIRST, and SECOND time this 24th day of March, 2014.

READ a THIRD time and **FINALLY PASSED** this 24th day of March, 2014.



Mayor J Maudsley



Clerk, M. Lewis

SCHEDULE 'A'
to
By-law No. 23-2014

"Restricted Area" is defined as those areas within the boundaries of the Municipality of Thames Centre as listed below:

- Planning area of Avon
- Planning area of Crampton
- Planning area of Dorchester
- Planning area of Gladstone
- Planning area of Harrietsville
- Planning area of Mossley
- Planning area of Nilestown
- Planning area of Putnam
- Planning area of Thorndale
- Planning area of Waubuno
- Planning area of Wellburn
- Upper Thames River Conservation Authority
- Fanshawe Cottage Lots No. 1 - 89 inclusive
- 136 Cromarty Drive (KOA Campground)
- 4340 Cromarty Drive (Golden Pond Campground)
- 3100 Dorchester Road (Anthony's Mobile Home Park)
- 3902 Dundas Street (Mobile Home Park)
- 22164 Valleyview Road (Riverview Campground)