

**The Corporation of the
Township of South-West Oxford**
By-law No. 58-2024

**A By-law to provide for the regulation and
control of the setting of fires and the prevention of fire
(Open-Air Burn By-law)**

Whereas Section 9 of the *Municipal Act, 2001, Chapter 25*, states that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

Whereas Section 8 of the *Municipal Act, 2001*, states that Sections 8 and 11 shall be interpreted broadly to confer broad authority on municipalities,

- (a) to enable them to govern their affairs as they consider appropriate; and
- (b) to enhance their ability to respond to municipal issues;

And Whereas Section 7.1 (1)(b) of the *Fire Protection and Prevention Act, 1997, S.O. 1997*, as amended, states that a council of a municipality may pass By-laws, regulating the setting of open-air fires, including establishing the times during which open air fires may be set.

Now Therefore the Council of the Corporation of the Township of South-West Oxford enacts as follows:

1. Definitions

- 1.1 “Agricultural burn” means any open-air burning specific to farm operations, not including demolition (see “special burn”).
- 1.2 “Approved” means approved by the Chief Fire Official or his/her designate.
- 1.3 “Ban or “burn ban” on open-air fires means a restriction or prohibition on open-air fires issued by the Chief Fire Official or his/her designate.
- 1.4 “Settlement area” is defined as urban and rural settlement areas within the Township of South-West Oxford, including towns, villages and hamlets.
- 1.5 “Chief Fire Official” means the assistant to the Fire Marshal who is the Municipal Fire Chief for South-West Oxford, or a member or members of the fire department appointed by the Municipal Fire Chief under Article 1.1.1.2. of Division C or a person appointed by the Fire Marshal under Article 1.1.1.1. of Division C.
- 1.6 “Extinguish” is defined as to cause or cease, or bring to an end, of any burning or flame. This includes any embers or coals present.
- 1.7 “Constant attendance” is defined as a person or persons, designated by the permit holder, to remain with the fire at all times until the fire has been fully extinguished. This person or persons shall be capable of utilizing all equipment necessary to control or extinguish the fire.
- 1.8 “Controlled burn” is defined as a burn that has been authorized, in writing, by the South-West Oxford Township Chief Fire Official or designate and under the conditions set out in the permit.
- 1.9 “Designate” is a member of the Fire Department appointed by the Chief Fire Official to carry out the duties assigned in the By-law.
- 1.10 “Due care” is defined as all necessary precautions to control and prevent the spread of fire.

- 1.11 "Extinguished" is defined as a fire, which has been quenched with water or all sources of heat have been eliminated by other means and the fire is verified by the permit holder or agent to be completely out.
- 1.12 "Fire permit" to be used interchangeably with burn permit, means a written conditional authorization issued and administered by the municipality to set or maintain an open-air fire, as per any restrictions and conditions contained in this by-law or as may be specified on the permit itself.
- 1.13 "Ignite" or "igniting" shall mean to catch fire or cause to catch fire.
- 1.14 "Necessary precautions" is defined as sufficient equipment, machinery and/or manpower, which shall be provided to control, extinguish, and/or prevent the spread of fire.
- 1.15 "Non-recreational burn" refers to any fire set in open air taking place in a rural area (outside settlement areas and rural clusters).
- 1.16 "Officer" shall mean the Chief Fire Official, Chief Fire Official's designate, or the By-law Enforcement Officer.
- 1.17 "Open-air burn" means any fire that is set in the open air. In the Township of South-West Oxford, there are three approved types of open-air burns: recreational; non-recreational/agricultural; and special.
- 1.18 "Permit" shall mean a permit issued by the Fire Chief to set a fire in the open air for a specified period.
- 1.19 "Permit Holder" shall mean a person to whom a Permit has been issued by the Fire Chief.
- 1.20 "Recreational open-air burn" shall mean a small outdoor fire, such as a campfire, being no larger than 2 feet in diameter, and burning only of natural woods as a source of fuels within a pit or non-combustible container.
- 1.21 "Special burn" refer to specific, permitted burning related to structure demolition (removal), or any material part thereof, or any other burning which has been approved by the Chief Fire Official.

2. Applicability

- 2.1. This By-law shall apply to all open-air burning within the municipal limits of the Township of South-West Oxford.
- 2.2. Any fires under the direct and constant supervision and control of the Township of South-West Oxford Fire Service are exempt from the provisions of this By-law.
- 2.3. As per Ontario Fire Code Regulation 2.4.4.4. open-air burning shall not take place unless it has been approved (i.e., permit has been issued), unless the open-air burning consists of a small, confined fire that is used to cook food on a grill, barbecue or spit, commensurate with the type and quantity of food being cooked, and supervised at all times. It is not the intent of this By-law to prohibit the use of fire for legitimate cooking or personal warmth, provided it conforms to the requirements outlined above and in section 3 of this By-law.

3. General Provisions

- 3.1. From and after the passing of this By-law, no person, either directly or through agents, servants or workmen, shall set fire to burn or cause or permit to be burned in the open-air within the Township of South-West Oxford any material or building or structure whether standing or demolished or any part thereof subject only to the exceptions contained herein.

3.2. Open Air Burning – Agricultural Burns and Non-Recreational Burns:

- (a) No person shall conduct **an agricultural or non-recreational open-air burn** within the boundaries of the Township of South-West Oxford unless permission has been given by the Chief Fire Official in the form of a Fire Permit (see Section 4).
- (b) Every person shall comply with the following regulations which apply to open-air burnings:
 - i. Non-recreational burning is permitted in rural areas (excluding settlement areas and/or rural clusters) with a valid and activated open-air burning permit.
 - ii. The Chief Fire Official, or designate, may conduct a site visit to adequately assess whether or not a permit may be granted. Specific conditions of special burns will be noted by the Chief Fire Official, or designate, and must be met at the time of the burn.
 - iii. Burns shall be located at least 30 meters (98.4 feet) from any combustible structure, vegetation, materials and/or public utilities. Burns must be located at least 150 meters (492.1 feet) from any occupied building.
 - iv. Open-air burning is permitted during daylight hours only. The fire must be completely extinguished $\frac{1}{2}$ hour before sunset to $\frac{1}{2}$ hour after sunrise, unless otherwise authorized by the Chief Fire Official, in which case the burn will be supervised until it is completely extinguished.
 - v. All conditions and special conditions listed on the Township of South-West Oxford Fire Permit shall be strictly adhered to.
 - vi. The fire must always be supervised, not left abandoned, and extinguishment must be confirmed before leaving the area.
 - vii. The landowner must notify fire dispatch prior to the ignition of the burn as directed on the valid burn permit (at least 30 minutes prior to the start of the burn).

3.3. Open-Air Burning – Recreational Fires/Burns:

Recreational fires/burnings are permitted provided such fire complies with the following requirements at all times:

- i. Recreational burning may be conducted between the hours of 11:00 a.m. to 2:00 a.m. only;
- ii. No materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood may be burned;
- iii. Recreational 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) with flames not to exceed (2) two feet (61 centimetres) in height.
- iv. Recreational burning shall be conducted in such a manner as to preclude the escape from the fire of combustible solids such as sparks and ash.
- v. 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.
- vi. Recreational burning shall be confined to a location that provides for a minimum distance of fifteen (15) feet (4.5 metres) in all directions from

adjacent properties, from any structure or combustibles such as shrubs, hedges, and trees.

- vii. An effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use.
- viii. Recreational open-air burning shall be attended, controlled, and supervised at all times and shall be completely extinguished before the open-air burn site is vacated.
- ix. Recreational burns are not permitted when the wind speed exceeds fifteen (15) kms per hour or during rainy or foggy weather or at times when a smog alert has been declared or a fire ban has been implemented. The appropriate Federal and/or Provincial Government agency shall be used as the source for this information.
- x. The owner, occupant or permit holder must take steps to ensure that adjacent properties are protected and that the by-products of open-air burnings do not have a negative impact on persons, pets, livestock or the environment.

3.4. Open-Air Burning – Special Burns:

- (a) No person shall conduct open-air burning within the boundaries of the Township of South-West Oxford unless permission has been given by the Chief Fire Official in the form of a Fire Permit (see Section 4).
- (b) Special burn permits may be issued for open-air burning that does not meet the criteria for recreational, non-recreational or agricultural open-air burn permits. The Chief Fire Official has the right to approve or deny all special open-air burn permit applications.
- (c) Every person shall comply with the following regulations which apply to special open-air burnings:
 - i. Special burns are only permitted in rural areas, and not permitted in settlement areas or rural clusters, unless approved by the Chief Fire Official
 - ii. Open-air burning is only permitted with an activated special open-air burning permit. No person shall have a special open-air burn prior to a site visit by the Chief Fire Official or designate.
 - iii. The Chief Fire Official, or designate, will conduct a site visit to adequately assess whether or not a permit may be granted. Specific conditions of special burns will be noted by the Chief Fire Official, or designate, and must be met at the time of the burn.
 - iv. Burns shall be located at least 30 meters (98.4 feet) from any combustible structure, vegetation, materials or public utility.
 - v. Special open-air burning is permitted during daylight hours only. The fire must be completely extinguished $\frac{1}{2}$ hour before sunset to $\frac{1}{2}$ hour after sunrise, unless otherwise authorized by the Chief Fire Official, in which case the burn will be supervised until it is completely extinguished.
 - vi. All conditions and special conditions listed on the Township of South-West Oxford fire permit shall be strictly adhered to.
 - vii. The fire must always be supervised, not left abandoned, and extinguishment must be confirmed before leaving the area.
 - viii. The landowner must notify fire dispatch at the phone number provided on the valid burn permit at least 30 minutes prior to the start of the burn.

3.5. No one shall install, use, and maintain an unlicensed incineration device for the burning of garbage or other refuse in any class or classes of building. This includes the utilization of burn barrels, and/or any other metal drums which are taller than they are wide. Combustible trash, waste and other materials shall be brought to the Oxford County Waste Management Centre for disposition.

3.6. Fire permits will be considered void on known smog days, or on days that the Township has issued a burn ban. The appropriate Federal and/or Provincial Government agency shall be used as the source for smog and weather-related information. The Chief Fire Official reserves the right to ban fires on any day. No person shall conduct any open-air burn (agricultural/non-recreational, recreational or special) on known smog days or any days to which the Township has issued a burn ban.

4. Fire Permit

4.1. Fire permit fees shall be in accordance with the Township's Rates and Fees By-law.

4.2. The Fire Permit application is available on the Township's website or at the Township of South-West Oxford Municipal Office. All applications shall be reviewed by the Chief Fire Official.

4.3. Upon the application of any person to the Chief Fire Official or designate for the setting of a fire otherwise herein prohibited, the Chief Fire Official or designate may give his/her consent in writing in the form of a Fire Permit upon the following terms and conditions:

- (a) That no provincial enactment, law, or regulation shall be infringed by the setting of such fire.
- (b) That the fee for such permit, if any, be paid by the applicant, and the amount of such fee shall be set by Council, may be amended from time to time as deemed necessary by Council. Required fees will be specified in the Township's Rates and Fees By-law.
- (c) Agricultural and non-recreational burns, recreational burns or special burns shall not be permitted on any street, park or public property owned by the Township of South-West Oxford without approval from the Chief Fire Official.
- (d) Every person setting a fire herein permitted shall exercise such due care and take such necessary precaution as may be required to avoid endangering persons or property in the vicinity thereof and shall remain in constant attendance at such fire until the same is extinguished and shall take precautions and follow such directions as may be set by the Chief Fire Official whether before, during, or after setting such fire.
- (e) All conditions and special conditions listed on the Township of South-West Oxford Fire Permit shall be strictly adhered to or the Fire Permit may be revoked by the Chief Fire Official.

4.4. All requests for an Open-Air Burn Permit shall be made at least seven (7) working days in advance by completing and submitting an Open-Air Burn Permit application (available on the Township website).

4.5. A fire permit may be cancelled or suspended at any time by the Chief Fire Official or his/her designate, and immediately upon receiving notice of such cancellation or suspension, the Fire Permit holder shall extinguish any fire started under the permit.

4.6. Fire permits are issued by the Township to the property owner for a specific property. This means that if the ownership of the property changes, a new permit shall be obtained by the new property owner prior to any open-air burn.

4.7. All conditions and special conditions listed on the Township of South-West Oxford fire permit shall be strictly adhered to at all times.

5. Order to Discontinue Activity, Extinguish and Prohibit

5.1. If it is found that there is a violation to the general provisions (see Section 3) of this By-law, the owner, occupant, or permit holder shall immediately discontinue the

activity or extinguish a Non-Recreational/Agricultural/Special Open-Air Burn or a Recreational Open-Air Burn if directed or ordered to do so by an Officer.

5.2. An Officer may issue an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn. No person shall disobey an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn.

5.2.1. An Order to Prohibit Open-Air Burn or Recreation Open-Air Burns shall set out:

- a) The municipal address of the property on which the contravention occurred;
- b) The name of the property owner and/or occupant;
- c) The date of the contravention;
- d) The contravention of the By-law;
- e) The date by which there must be compliance with the order; and
- f) The date on which the order expires.

5.3. If an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn is issued, the Fire Marshal, a Chief Fire Official or an assistant to the Fire Marshal may instruct the Township of South-West Oxford to recover amounts and expenses incurred in carrying out an Order, or expenses incurred to remove or reduce an immediate threat to life on the land or premises.

5.4. Every person who fails to comply with an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn is guilty of an offence and on conviction is liable to a fine set out in the Fire Protection and Prevention Act. The imposition or payment of the fine does not relieve the person from complying with the order.

5.5. Any person who removes a copy of an Order to Prohibit an Open-Air Burn or Recreational Open-Air Burn, or of a noticed posted without the approval of the Fire Marshal, an assistant to the Fire Marshal, or a Chief Fire Official, is guilty of an offense and on conviction is liable as per the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4.

6. Remedial Action – Costs

6.1. Should a person default in complying with the provisions of this By-law, with an Order to Discontinue Activity and/or an Order to Extinguish, the fire may be extinguished at the person's expense as per the Township's Rates and Fees By-law, as amended from time to time at the discretion of the Chief Fire Official.

6.2. The Township may enter on land for the purpose of extinguishing a fire under subsection 6.1.

6.3. The power of entry under this Part shall be exercised by an Officer, as defined in this By-law. The person exercising the power of entry must on request display or produce proper identification. The person exercising the power of entry may be accompanied by a person under his or her direction.

6.4. In the event that the owner or owners of lands and premises fail to reimburse the Township for the costs of control, suppression, and extinguishment of any fire as set forth above, the amount of such costs shall be added to the tax roll for the property upon which the fire had occurred and thereafter collected in the same manner as municipal taxes.

7. Inspections and Inspection Fee

7.1. An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this By-law, or an Order to Prohibit an Open-Air Burn is being complied with.

7.2. Where an Officer determines that an open-air burning is not in compliance with this By-law or with an Order to Prohibit an Open-Air Burn or Recreational Burn, a fee for inspecting the open-air burn may be imposed on the person contravening this

By-law. Inspection and re-inspection fees and charges are set out by the Township's Rates and Fees By-law, as amended from time to time.

- 7.2.1. The fees imposed constitute a debt of the person to the Township of South-West Oxford. The Township of South-West Oxford may add fees to the tax roll and collect them in the same manner as municipal taxes on any property for which all the owners are responsible for paying the fees.

8. Enforcement and Penalty

- 8.1. Any person is guilty of an offence if he/she:
 - (a) hinders, obstructs or interferes with the Fire Marshal, an assistant to the Fire Marshal or Chief Fire Official in the exercise of his/her powers and duties;
 - (b) prevents an inspector from entering land or premises, under section 19/20 of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, refuses to answer questions on matters relevant to the inspection, or provides the inspector with information, on matters relevant to the inspection, that the person knows, or ought reasonably to know, to be false or misleading;
 - (c) subject to Div. B, Part 2 of the Ontario Fire Code, contravenes any provision of the Act or Regulations; or
 - (d) refuses or neglects to obey or carry out the directions of the Fire Marshal, an assistant to the Fire Marshal, or a Chief Fire Official given under Authority of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, s. 28 (1).
- 8.1.2. Any person or corporation who contravenes any provision of this By-Law or the Ontario Fire Code Div. B Section 2.4.4 (1), is liable to a fine set by the Fire Protection and Prevention Act (FPPA), as amended.
- 8.1.3. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 8.2. If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 8.3. If a contravention of this By-law results in the dispatch of Fire Department personnel and vehicles, and/or the use of a fire suppressant, the person or corporation and/or the property owner in control of the fire may be charged, at the discretion of the Chief Fire Official, for the full cost of such response as set out by the Township's Rates and Fees By-law. Further to this that any such charge shall be subject to applicable taxes as a fee payable to the Municipality as per the *Municipal Act*, S.O. 2001, as amended, Chapter 25, Section 391.
- 8.3.1. The quantity and type of fire vehicles and personnel dispatched to respond for the purpose of extinguishing, controlling, or investigating any open-air fires are at the discretion of the Chief Fire Official.
- 8.4. No person shall hinder or obstruct or attempt to hinder or obstruct an Officer in the performance of his duties under this By-law.

9. Conflict and Severability

- 9.1. In the event of any conflict between any provision set forth in this By-law and any other regulation, the more restrictive provision shall apply.
- 9.2. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall

not affect the validity of any other provisions, sections, or portions thereof of the Ordinance. The remainder of the Ordinance shall remain in full force and effect.

10. Liability

- 10.1. Permission to set such fire herein shall not be deemed to relieve the applicant from, nor impose upon the Municipality, any civil or criminal liability that may otherwise be incurred by reason of the setting of such fire.

11. Repeal and Enactment

- 11.1. That By-laws 29-2023 and 76-2023 and any other by-laws that are inconsistent with the provisions of this Open-Air Burning By-law of the Corporation of the Township of South-West Oxford are hereby repealed and replaced in their entirety.
- 11.2. This By-law shall come into full force and effect on the final date of passing.

12. Short Title

- 12.1 This By-law shall be referred to as the “Open-Air Burning By-law.”

Read a First and Second time this 13th day of August, 2024.

Read a Third time and Finally Passed this 13th day of August, 2024.

Mayor: David Mayberry

Clerk: Julie Middleton