

THE CORPORATION OF THE MUNICIPALITY OF BLUEWATER

BY-LAW NUMBER 31-2016

BEING A BY-LAW TO REGULATE OPEN AIR BURNING

WHEREAS the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, Section 7(1)1(a)(b), as amended states that a council of a municipality may pass by-laws regulating fire prevention, including the 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 2.6.3.4 of the Ontario Fire Code provides for the prohibition of open air burning unless approved or unless such open air burning consists of a small contained fire which is supervised at all times, and used to cook food on a grill or a barbeque;

AND WHEREAS Section 9 of the Municipal Act, 2001 S.O. 2001 c. 25 as amended, states that; 'Powers of a natural person – 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';

AND WHEREAS Section 11(1) of the Municipal Act, 2001 S.O. 2001 c. 25 as amended states a lower-tier municipality and an upper-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4). 2006, c. 32, Sched. A, s. 8;

AND WHEREAS Section 11(2) of the Municipal Act, 2001 S.O. 2001 c. 25 as amended states a lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters: Health, safety and well-being of persons;

AND WHEREAS the Council of the Municipality of Bluewater deems it appropriate to enact a by-law to regulate open air burning;

NOW THEREFORE the Council of the Municipality of Bluewater hereby enacts as follows:

1. DEFINITIONS

“Acceptable Burn Material” means commercially produced charcoal or briquettes, small amounts of white or brown paper or cardboard used to start a fire, dry seasoned wood that has been generated on the landowners own property, dry wood by-products that have not been chemically treated, painted or stained, purchased fire logs or purchased firewood sold for the purpose of recreational campfires and not exceeding the maximum permitted Recreational Fire dimensions defined in this By-law.

“Cooking Fire” means a small, confined fire supervised at all times and used to cook food on a grill or barbeque.

“High Risk Period” means any period of time, when due to extreme dry, high wind or other conditions, there is a higher than normal risk of unwanted spread of fire, as determined by the Ontario Fire Marshal or the Fire Chief/Chief Fire Official, and identified as a High Risk Period.

“Fire Chief/Chief Fire Official” means the Chief Fire Official of the Municipality of Bluewater, Contracted Fire Chief/ Chief Fire Official, District Chief or their designate.

“Floating Lantern” also known as Chinese, Sky, Flying Lanterns, means a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended and released into the air to float.

“Open Air Burning” means a fire set in the Open Air.

“Open Fire” means any open fire other than that defined as a “Cooking Fire” or “Recreational Fire” under this By-law.

“Poor Air Quality Day” means any period of time when a Poor Air Quality Advisory has been issued by Environment Canada or other recognized government health or meteorological agency.

“Prohibited Burn Materials” means any material other than as described under “Acceptable Burn Materials.” Specifically prohibited under this By-law and not to be burned under any circumstances include household waste, human or animal excrement, leaves, grass, treated lumber, insulation, asphalt shingles or other construction materials, commercial by-products such as those generated from wood working, deck building or landscaping businesses, tires, rubber, plastic, styrofoam, petroleum or other potentially toxic waste materials.

“Recreational Fire” means a small outdoor fire such as a campfire set within a confined area or device such as an outdoor fireplace or fire pit, situated in a “Safe Location” and measuring no more than 0.70 metres (27”) in any dimension and supervised at all times.

“Safe Location” means outdoors and not on a porch or balcony area that is roofed or otherwise covered, or near dry vegetation, or in any other place conducive to unwanted development or spread of fire or explosion, or supported by combustible material. The Safe Location shall be a minimum of 5 metres from any structure and a minimum of 5 metres from adjacent property lines. The property line setbacks for a safe location do not apply to campgrounds.

2. GENERAL PROVISIONS

- 1) No person shall set or maintain a fire in contravention of the Ontario Fire Code, the Environmental Protection Act R.S.O. 1990, Chapter E. 19, or any other statutory requirements of the Province of Ontario.
- 2) No person shall set a Recreational Fire or an Open Fire during a period identified as a Poor Air Quality Day, High Risk Period, or during a fire ban declared by the Fire Chief/Chief Fire Official.
- 3) No person shall set a Recreational Fire or an Open Fire so as to have smoke or debris interfere with vehicular traffic or otherwise pose a safety hazard on a public roadway.
- 4) No person shall set a Recreational Fire or an Open Fire if the wind conditions or the quality of the burn restricts neighbours from enjoyment of the normal use of their property or causes discomfort to persons in the immediate area.
- 5) Cooking Fires and Recreational Fires shall be permitted, provided; every person who sets a cooking or recreational fire shall comply with the following regulations:
 - a. The fire must be set in a Safe Location, on the landowners own property and contained within an appropriate device
 - b. The fire must be fueled only with Acceptable Burn Materials

- c. The fire must be supervised at all times
 - d. Effective means of extinguishment must be readily available
 - e. The fire must be fully extinguished before being left unsupervised
- 6) No person shall set fires for training purposes or fire extinguisher safety demonstrations, without the prior approval of the Fire Chief/Chief Fire Official.
- 7) No person shall burn anything defined as Prohibited Material.
- 8) Open Fires are prohibited from all Settlement Areas designated as Village/Hamlet and Lakeshore Residential as established in the current Municipality of Bluewater Official Plan.
- 9) Open Fires set to eliminate Acceptable Burn Materials within unrestricted areas are permitted and every person who sets an Open Fire shall comply with the following regulations:
- a. Contact the Fire Chief/Chief Fire Official or municipal office 90 minutes or greater prior to starting an Open Fire. Notification is not required for Cooking Fires or Recreational Fires as defined in this By-law
 - b. Open Fires must be confined to daylight hours
 - c. Open Fires must be set on the landowners own property
 - d. Open Fires must be fueled only with Acceptable Burn Materials
 - e. Open Fires must be supervised at all times
 - f. Effective means of extinguishment must be readily available
 - g. Open Fires must be fully extinguished before being left unsupervised
 - h. Acceptable Burn Material must be generated on the landowner property
 - i. No person shall locate, permit or allow an Open Fire to be located less than 15 metres from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article
- 10) No person shall release Floating Lanterns which have an open flame
- 11) No person shall harass, obstruct or interfere with anyone authorized or delegated authority to enforce the By-law or extinguish fires
- 12) Open Air Fires for religious, civic or ceremonial purposes are allowed within urban areas as established in the current Bluewater Official Plan and shall require a burn permit issued by the Fire Chief/Chief Fire Official, subject to any terms and conditions imposed by the Fire Chief/Chief Fire Official.

3. AGRICULTURAL LANDS

- 1) A person may conduct an Open Fire if it is part of a normal farm practice carried on as part of an agricultural operation, as those defined in the Farming and Food Production Act, 1998, S.O. 1998 c.1, on lands zoned for agricultural use, and subject to the conditions set out as follows;
 - a. Contact the Fire Chief/Chief Fire Official prior to starting an Open Fire
 - b. Open Fires must be confined to daylight hours
 - c. Open Fires must be set on the landowners own property
 - d. Open Fires must be supervised at all times
 - e. Open Fires must be fully extinguished before being left unsupervised
 - f. No person shall locate, permit or allow an Open Fire to be located less than 15 metres from any building, structure, overhead wire or other combustible article
 - g. No Open Fire may include Prohibited Materials as defined in this By-law

4. LIABILITY

The following liability provisions shall apply to all Open Air Burning within the Municipality of Bluewater:

Where Open Air Burning is permitted under this By-law, any person who starts a fire shall:

- a. Take all reasonable steps to keep the fire under control including continuous supervision and ready access to effective means of extinguishment
- b. Extinguish the fire before leaving the site of the fire
- c. Be responsible for any damage to property or injury to persons that may result from the said fire
- d. Be liable for costs incurred by the Municipality of Bluewater including administration, personnel, equipment and apparatus necessarily called to investigate, respond or extinguish said fire

Any person who contravenes any provision of this By-law is guilty of an offence and is liable to a fine not exceeding \$5,000.00 under the Provincial Offences Act; and may also be liable for costs established under the By-law to Establish Fees.

5. ENFORCEMENT

This By-law shall be enforced by the Fire Department, Provincial Offence Officers, Police, Municipal Law Enforcement Officers, Assistants to the Ontario Fire Marshal, or such other persons as Council may designate.

6. PROVINCIAL LEGISLATION

Nothing in this By-law shall supersede or waive the requirements of any Provincial Legislation and/or Regulations.

7. BY-LAWS REPEALED

By-law Number 48-2013 is hereby rescinded and repealed.

That this by-law shall come into effect on its passing.

Read a first and second time this 18th day of April, 2016.

Read a third time and passed this 18th day of April, 2016.

Tyler Hessel, Mayor

Charlene Overholt, Clerk