

**THE CORPORATION OF THE
TOWNSHIP OF SOUTH-WEST OXFORD**

BY-LAW NO. 35-2014

**BEING A BY-LAW TO PROVIDE FOR REGULATION AND
CONTROL FOR THE SETTING OF FIRES, THE PREVENTION
OF FIRES, AND THE REMOVAL OF FIRE HAZARDS
AND TO REPEAL BY-LAW 61-2013**

WHEREAS Section 8 of the *Municipal Act, 2001*, Chapter 25 (as amended), 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 9 of the *Municipal Act, 2001*, Chapter 25 (as amended) states that “Sections 8 and 11 shall be interpreted broadly so as 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, c.4(as amended) provides 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:

**Article 1
DEFINITIONS**

1.1 “approved”

means approved by the Chief Fire Official or his/her designate.

1.2 “ban”

on open-air fires means a restriction or prohibition on open-air fires issued by the Chief Fire Official or his/her designate.

1.3 “built up residential area”

is defined as any area within the Township of South-West Oxford that in the opinion of the Chief Fire Official or designate open-air burning would cause a fire hazard or an air quality concern for neighbouring structures or properties.

1.4 “Chief Fire Official”

means the Fire Chief of the Township of South-West Oxford as established by By-Law and the one person under the *Ontario Fire Code* (Regulation 388/97) who has the authority to approve open-air burning.

1.5 “completely burned out”

is defined as a fire that all fuel has been consumed and the ashes have been checked to ensure that no hot embers exist.

1.6 “constant attendance”

is defined as a fully competent person or persons over the age of eighteen (18) 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.

1.7 “controlled burn”

is defined as a burn that has been authorized, in writing, by the South-West Oxford Chief Fire Official or designate and under the conditions set out in the permit.

1.8 “designate”

is a member of the Fire Department appointed by the Chief Fire Official to carry out the duties assigned by the By-Law.

1.9 “due care”

is defined as all necessary precautions to control and prevent the spread of fire.

1.10 “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.

1.11 “fire 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.

1.12 “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.

1.13 “open-air burn”

is defined as a burn that is exposed to the atmosphere and/or not wholly enclosed in a container.

**ARTICLE 2
APPLICATION**

2.1 Application

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 Municipality of South-West Oxford Township any material or building or structure whether standing or demolished or any part thereof subject only of the exceptions herein.

2.2 Exceptions

This By-Law shall not apply to:

- (a) A person using a barbeque to cook food;

- (b) A person using a candle, tiki torch or container with less than 368 grams (13 ounces) of fire gel fuel;
- (c) A person using an appliance that is in conformance with the *Technical Standards and Safety Act, 2000*, S.O. 2000, c. 16, as amended is for outdoor use and is installed in accordance with the manufacturer's instructions;
- (d) A person using a device designed to heat pitch or asphalt;
- (e) A person using welding equipment;
- (f) a person conducting fire extinguisher training who has obtained prior written approval of the Fire Chief or designate.
- (g) a person conducting a Normal Farm Practice carried on as part of an agricultural operation falls under the provisions of 5.1.4 of this By-Law.
- (h) Any employee of the Township of South-West Oxford in the performance of his/her duties who has written consent from the Chief Fire Official.
- (i) Any Officer with The South-West Oxford Fire & Emergency Services who is conducting a fire for the purposes of education or training and has written consent of the Chief Fire Official.

ARTICLE 3 PERMITS

3.1 Permit Approvals

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 a permit, if any, be paid by the applicant, and the amount of such fee shall be set by Council, and may be amended from time to time as deemed necessary by Council.
- (c) No such fire shall be set on any street, parks, private or public property that in the opinion of the Chief Fire Official or designate is deemed to be a built up residential area.
- (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 completely burned out or extinguished and shall take precautions and follow such directions as may be set out 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 & Emergency Services fire permit shall be strictly adhered to or the fire permit shall be revoked.
- (f) A fire permit shall not be issued until an inspection of the property, including verification of working smoke alarms in all property dwelling units, has been conducted by the Chief Fire Official or his/her designate.
- (g) Under no circumstances shall open air burning of petroleum products, including but not limited to tires, plastics and asphalt shingles, be permitted on any lands and premises in the Township of South-West Oxford.

3.2 Permit Application

All requests for burning permits shall be made at least three (3) working days in advance of the date of the proposed burn

3.3 Permit produced upon request

No person shall fail to produce the Fire Permit if requested by any member of the South-West Oxford Fire & Emergency services, Employee of the Township of South-West Oxford, or Police Officer.

3.4 Permit not transferable

A Fire permit is non-transferable and is only valid for the person(s) and property named on the Permit.

3.5 Permit – Refused/revoked/suspended at any time

A fire permit application may be refused at any time by the Chief Fire Official. Also a current 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.

3.6 Permit – Time frame

All burn permits will be issued to a maximum of a 1 year time period at the discretion of the Chief Fire Official.

**ARTICLE 4
GENERAL PROVISIONS**

4.1 Open air burning – Regulations

4.1.1 No person shall conduct open air-burning within the boundaries of the Township of South-West Oxford unless permission has been given by the Fire Chief in the form of a Fire Permit.

4.2 Recreational Burning

4.2.1 No person shall set or maintain a recreational fire unless it is contained within a non-combustible container or pits specifically designed for open-air burnings and all following regulations shall be adhered to.

4.2.2 The following regulations shall apply with respect to open-air burnings for recreational purposes;

- (a) Open-air burnings may be conducted between the hours of 4pm and midnight only.
- (b) No materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood may be burned.
- (c) Open-air burnings shall be confined to non-combustible containers or to a pit no larger than two (2) feet (61 centimeters) by two (2) feet with flames not to exceed two (2) feet in height.
- (d) Open-air burning shall be conducted in such a manner as to preclude the escape from the fire of combustible solids such as sparks and ash.
- (e) 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.
- (f) Open-air burning shall be confined to a location that provides for a minimum distance of fifteen (15) feet (4.5 meters) in all directions from adjacent properties.
- (g) Open-air burning shall be confined to an area that is a minimum of fifteen (15) feet (4.5 meters) from any combustible structure including fences, shed and decks.
- (h) An effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use.
- (i) 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.
- (j) Open-air burnings are not permitted when the wind speed exceeds fifteen (15) kilometers 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 of this information.
- (k) 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 or the environment.

ARTICLE 5 GENERAL

5.1 General

- 5.1.1 Nothing in this By-Law shall be deemed to authorize or permit the commission of a nuisance and the granting of 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.

- 5.1.2 It is not the intent of this By-Law to prohibit the use of a fire for legitimate cooking or for personal warmth, provided the fire is supervised at all times, and conforms to the requirements in Article 4 of this By-Law.
- 5.1.3 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.
- 5.1.4 A person or persons conducting an Open-air burning as a normal farm practice must apply for a fire permit to ensure that all information is registered with the dispatching center to avoid nuisance calls.

ARTICLE 6 ENFORCEMENT

6.1 Duties

The provisions of this By-Law shall be enforced by the Municipal Law Enforcement Officer, the Chief Fire Official or his/her designate.

6.2 Offences

- 6.2.1. Any person who knowingly provides false or misleading information for the purposes of obtaining a Fire Permit or who contravenes any provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*.
- 6.2.2 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.
- 6.2.3 Notwithstanding any other provisions of this Part in respect to penalties for violation of the provisions of this By-Law, any person may, upon presentation of an infraction notice issued by an Officer alleging commission of any of the offences under this By-Law set out in Schedule "A", pay out of Court within the time limit specified on the said infraction notice the penalty set out opposite such offence as indicated in Schedule "A" to this By-Law.
- 6.2.4 If the contravention of this By-law result in fire suppression or fire safety personnel and vehicles being dispatched to respond, the person in control of the fire and/or the property owner may be charged, at the discretion of the Chief Fire Official, for the cost of such response as set by Council. 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 and 396.
- 6.2.5 The quantity and type of fire vehicles and personnel dispatched to respond for the purpose of extinguishing, controlling, or investigating any open-air fire are at the discretion of the Chief Fire Official.

6.2.6 In the event that the owner or owners of lands and premises fail to reimburse the Municipality 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.

6.2.7 In addition, charges for any offence may be levied under the *Fire Protection and Prevention Act*, S.O. 1997, as amended, Chapter 4, Section 28.

6.3 Extinguishment

6.3.1. If any Officer of the South-West Oxford Fire and Emergency Services determines that this By-law has been contravened, the Officer may direct the person(s) who contravened the By-law, or who caused or permitted the contravention, to discontinue the contravention and extinguish the open-air burning.

6.3.2. No person shall continue, attempt, or permit an open-air burning for the remainder of the day's time period, regardless if a permit for the same has been issued, if directed to extinguish or discontinue the Open-air burning by an Officer of the South-West Fire and Emergency Services.

**ARTICLE 7
VALIDITY**

7.1 Validity

If a court of competent jurisdiction declares any section or part of a section of the by-law invalid, it is the intention of Council that the remainder of the by-law shall continue to be in force.

**ARTICLE 8
REPEAL**

8.1 Repeal

That By-Law No. 61-2013 of The Corporation of the Township of South-West Oxford is hereby repealed and replaced in its entirety.

**ARTICLE 9
EFFECTIVE DATE**

9.1 Effective Date

This by-law shall come into force and effect on the day of its final passing thereof.

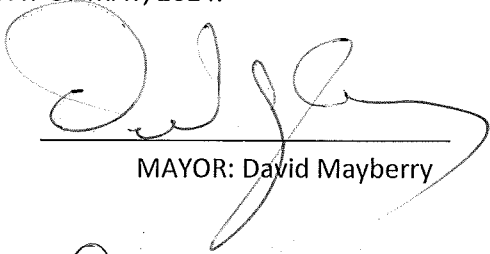
ARTICLE 10
SHORT TITLE

10.1 Short Title

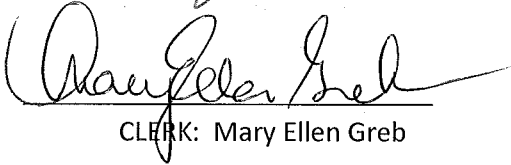
This by-law shall be referred to as the "Fire Prevention and Control" By-Law.

READ A FIRST AND SECOND TIME THIS 20th DAY OF MAY, 2014.

READ A THIRD TIME AND FINALLY PASSED THIS 20th DAY OF MAY, 2014.



MAYOR: David Mayberry



CLERK: Mary Ellen Greb

SCHEDULE "A"**TO BY-LAW 35-2014****CORPORATION OF THE TOWNSHIP OF SOUTH-WEST OXFORD****Fire Prevention and Control****Part 1 Provincial Offences Act****Short Form Wording and Set Fines**

	Column 1	Column 2	Column 3
ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1.	Failure to comply with permit conditions	3.1 (e)	\$200.00
2.	Failure to produce fire permit	3.3	\$200.00
3.	Failure to extinguish fire when ordered by Fire Chief or designate	3.5	\$200.00
4.	Did fail to obtain an Open-Air Burning Permit	4.1	\$200.00
5.	Open air burning outside of permitted hours	4.2.2 (a)	\$200.00
6.	Open air burning fueled by prohibited burn materials	4.2.2 (b)	\$200.00
7.	Open air burning in a combustible container	4.2.2 (c)	\$200.00
8.	Open air burning - releasing sparks/ash	4.2.2 (d)	\$200.00
9.	Open air burning with fuel – exceeds container	4.2.2 (e)	\$200.00
10.	Open air burning near to neighbouring properties	4.2.2 (f)	\$200.00
11.	Open air burning near combustibles	4.2.2 (g)	\$200.00
12.	Open air burning with no means of extinguishment	4.2.2 (h)	\$200.00
13.	Open air burning left unsupervised	4.2.2 (i)	\$200.00
14.	Open air burning on poor air quality day or high winds	4.2.2 (j)	\$200.00
15.	Open air burning causing hazard to adjacent properties	4.2.2 (k)	\$200.00
16.	Did continue or permit an open air burning after being directed to discontinue	6.3.2	\$200.00

Note: The general penalty provision for the offences cited above is Section 6.2.1 of By-Law No. 35-2014, a certified copy of which has been filed.



SCHEDULE "B" – BY-LAW 35-2014

TOWNSHIP OF SOUTH-WEST OXFORD

FIRE & EMERGENCY SERVICES

APPLICATION FOR AN OPEN AIR BURNING PERMIT

Name:	
Address:	Address of proposed burn if different:
Phone #: H: C:	Names of individuals monitoring fires:

Materials to be burned:

Brush		Brush	
Dry clean wood		Dry clean wood	
Pallets		Pallets	
Construction Materials		Construction Materials	
Standing Structure		Standing Structure	
Fallen Structure		Fallen Structure	

Signature of Applicant

Application Date

Your Application will be reviewed by the Fire Chief within 5 business days of your application

Note: Even if a permit has been issued, the open air burning may be terminated and extinguished if in the opinion of the Chief Fire Official or his/her designate a potential fire hazard exists or the conditions of the *permit* are being violated.

Note: The general penalty provision for the offences cited above is Section 6.2.1 of By-Law No. 35-2014, a certified copy of which has been filed.

Office Use Only:			
Approved:		Inspection Needed:	
Denied:		Permit Issued:	
Signature:		Fire Chief Jeff VanRybroeck / or Designate	