

# The Corporation of the Municipality of Brockton

## By-Law 2017-034

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Being A By-Law To Regulate Fire Prevention Including The Prevention Of The Spreading Of Fires And The Regulating Of Open Air Fires.

**Whereas** Section 7.1 of the Fire Protection and Prevention Act as amended, authorizes Municipal Councils to pass by-laws regulating fire prevention, including the prevention of the spreading of fires and regulating the setting of open air fires, including the times during which open air fires may be set.

**Whereas** open air fires contribute to air pollution and the odour and smoke disturbs the comfort and convenience of the neighbourhood.

**Now Therefore** the Council of the Corporation of the Municipality of Brockton **Enacts As Follows:**

### 1. Definitions:

For purposes of this by-law and the following definitions shall apply;

- 1.1 "Chief Fire Official(s)" shall mean the Fire Chief of Brockton or his/her designate(s);
- 1.2 "CAO/Clerk" shall mean the Chief Administrative Officer/Clerk or his/her designate(s)
- 1.3 "Fire" means the burning or combustion of materials in the open air, but shall not include any fire entirely contained in an apparatus designed, constructed or manufactured for the purpose of barbecuing food for consumption;
- 1.3 "Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.
- 1.4 "Municipality" shall mean the Corporation of the Municipality of Brockton;
- 1.5 "Open Air" means any open place, yard, field or construction area which is not enclosed by a building or structure;
- 1.6 "Prohibited Materials" shall include materials such as automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, leaves, asphalt shingles, rubber, construction materials – treated or synthetic construction materials likely to cause noxious or obnoxious fumes, insulation, asbestos and flammable or combustible liquids or accelerants and household garbage, recyclables, garden brush & waste.
- 1.7 "Recreational Fire" means a fire that burns within an area that is no larger than 0.6 meters (24 inches) in diameter and height of 0.3 (12 inches) meters, provided such fire is used for warmth or cooking food;
- 1.8 "Structure" shall mean anything that is erected, built or constructed or parts joined together or any such erection fixed to or supported by the ground.
- 1.9 This by-law does not apply to municipally owned and landfill site lands owned by the Corporation of the Municipality of Brockton.

### 2. Prohibitions:

No person shall set a fire or allow a fire to burn except in accordance with the following provisions:

- 2.1 No person shall set a fire or allow a fire to burn except in accordance with the provisions of this By-Law and all applicable provincial, municipal and federal laws and regulations.

- 2.2 No person shall set a fire or allow a fire to burn in the open air except for a recreational fire or one permitted under section 4.1 of this by-law without obtaining a permit from the Chief Fire Official or meeting the Fire Chiefs criteria. All Fires shall meet the criteria as set out in sections 3.0 to 4.0 of this by-law.
- 2.3 No person shall set or allow an uncontained fire to burn, such as a grass fire. Fires shall only be set or allowed to burn in a container, apparatus, or physical construction that is capable of controlling the spread of fire.
- 2.4 Every person present at a fire shall ensure that an adequate means of extinguishing the fire is available at the fire site while the fire is burning; without limiting the generality of the foregoing, every Permit holder shall ensure that the means of extinguishing the fire required in the terms of the Permit is available at the fire site at all times while the fire is burning.
- 2.5 No person shall set or maintain a fire unless under the constant supervision and control of a person 16 years of age or over from the time of lighting until the fire is completely extinguished.
- 2.6 No person shall set or maintain a fire during a fire ban declared by the Chief Fire Official, including fires which would otherwise be permitted or for which a permit has been issued.
- 2.7 No person shall burn prohibited materials as defined in Section 1.6. This prohibition shall also apply to a person who is actively farming land and who wishes to set or maintain a fire on farm lands for purposes which are normal and incidental to the farm use or who if burning brush has applied for a permit under Section 4 of this By law.
- 2.8 No person shall burn materials which do not originate from the lands associated with the burn site or that have been imported to the burn site unless authorized by a permit issued under Section 4.1 of this by-law

### **3. Prohibited Locations**

No person shall set a fire or allow a fire to burn except in accordance with the following locational criteria:

- 3.1 No person shall set or maintain a fire on any lands used for institutional, industrial or commercial purposes, save and except in accordance with a permit issued under this by-law;
- 3.2 No recreational fire may shall be set or allowed to burn where said fire is less than 10 meters from any building, structure, hedge, tree, fence, highway or vehicular right of way, overhead wire or combustible material of any kind.
- 3.3 No fire other than a Recreational Fire shall be set or allowed to burn where said fire is less than fifteen (15) metres from any building, structure, hedge, tree, fence, highway or vehicular right of way, overhead wire or combustible material of any kind.
- 3.4 No fire shall be set or allowed to burn on a public highway or land that is owned by the Corporation without a permit therefore.
- 3.5 No fire shall be set or allowed to burn on any land or premise without the consent of the owner of such land or premise.
- 3.6 No fire shall be set or allowed to burn on any land or premise where construction of a building or structure is ongoing.
- 3.7 No fire other than a Recreational Fire shall be set to burn between sunset on the evening of any day and sunrise on the following day.

- 3.8 No fire other than a Recreational Fire or one for which a permit has been issued shall be set or allowed to burn within the boundaries of the Municipality of Brockton. The provisions of Section 2.3 do not apply to fires set on farms for purposes which are normal and incidental to farm use.
- 3.9 Approval to burn with extended hours may be granted in circumstances where it is demonstrated to the satisfaction of the Fire Chief Official that it is necessary and may be completed safely. Notwithstanding the issuance of a burn/fire permit with extended hours, the property owner shall be responsible for fire department response costs for a fire allowed to burn past sunset.
- 3.10 Notwithstanding the issuance of a Permit and with or without a Permit, no person shall set or allow a fire to burn when the direction or intensity of the wind may cause:
- 3.10.1 a decrease in visibility on any highway;
  - 3.10.2 any odour or smoke to such an extent or degree so as to cause discomfort to persons, or hazards to health, cause loss of enjoyment or normal use of property and within 150 meters of an adjacent property and upon the issuance of a smog alert;
  - 3.10.3 a rapid spread of fire through grass to a bush area.

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

The Chief Fire Official is hereby delegated authority to approve of the setting of fire in accordance with the provisions of this By-Law, provided the applicant has completed the form of Permit attached hereto as 'Schedule A' and paid such fee as set by Council from time to time.

- 4.1 Any person who is actively farming land and who wishes to set or maintain a fire incidental to the farm use; or to set or maintain a fire such as burning a derelict building or a large brush pile, shall notify the Municipal Office or Chief Fire Official during normal business hours at least 24 hours before setting the fire.
- 4.2 The fire/burn permit may be cancelled at any time by the Fire Chief or his designate, and immediately upon receiving notice of such cancellation the permittee shall extinguish any fire started under the permit.
- 4.2.1 Under special circumstances, the Chief Fire Official in consultation with the CAO may issue a fire/burn permit for a non-agricultural property.

#### **5. Penalty**

- 5.1 Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.
- 5.2 Any person who sets or allows a fire to burn and which fire escapes and becomes beyond his or her control, whether or not the said fire is permitted under this by-law, and any person who fails to give notice under Section 4.1 of this by-law, so that the Fire Department is called to the fire, shall be liable for the expenses of the fire department, including personnel, equipment and apparatus costs necessary to investigate, respond and extinguish the fire at such rates established from time to time by Council.

#### **6. Enforcement**

- 6.1 The By-Law Enforcement Officer appointed to enforce this by-law is authorized to order any person to extinguish any fire when there is a breach of any portion of this by-law or any regulations of the Ontario Fire Code or where in their opinion there is a danger of such fire spreading or otherwise endangering life or property.

7. By-Law 2014-100 and all by-laws inconsistent with this by-law are hereby repealed.
8. That this by-law shall come into force and effect upon passage.

Read, Enacted, Signed and Sealed this 10<sup>th</sup> Day of April, 2017.

Original Signed By:  
Mayor – David Inglis

Original Signed By:  
Deputy Clerk – Julie Farrell



Permit Number \_\_\_\_\_

**The Corporation of the Municipality of Brockton**  
**Permit for Open Fires**

**Permission is Hereby Granted To:**

Applicant Name: \_\_\_\_\_

Address: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Phone: \_\_\_\_\_ Cell: \_\_\_\_\_

Roll Number \_\_\_\_\_

**For the Purpose of Having an Open Fire**

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**(Extended Hours Approved from Time: \_\_\_\_\_ )**

Location: \_\_\_\_\_

Material to be Burned: \_\_\_\_\_

Means of Extinguishment Available: \_\_\_\_\_

Method of Disposal of Burned Material: \_\_\_\_\_

Does all the material to be burned originate from the permit location owned by the Applicant?

\_\_\_\_\_

The Applicant agrees to comply with all provisions of By-Law 2017-034 and agrees to assume all responsibility for any costs or damages occurred from the fire for which this permit is issued. Any breach of this permit for By-Law 2017-034 may result in prosecution of the Applicant and the imposition of fines pursuant to the Provincial Offences Act.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

Permit Fee: \_\_\_\_\_

Paid:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Chief Fire Official

# **PROVINCIAL OFFENCES ACT**

## **Part I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2017-034 of the Municipality of Brockton, attached hereto are the set fines for those offences. This Order is to take effect July 26<sup>th</sup>, 2017.

Dated at London this 26<sup>th</sup> day of July, 2017.

A handwritten signature in black ink, appearing to read 'Stephen J. Fuerth', written in a cursive style.

Stephen J. Fuerth  
Regional Senior Justice  
West Region

**Part 1 of Provincial Offences Act  
The Corporation of the Municipality of Brockton**

**By-Law 2017-034**

Being a by-law to regulate fire prevention and open air fires.

<b>Item</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Offence Creating Provision or Defining Offence</b>	<b>Column 3 Set Fine</b>
1	Set or allow open fire without a permit	S. 2.2	\$200.00
2	Set uncontained fire	S. 2.3	\$200.00
3	Fail to provide adequate means to extinguish fire	S. 2.4	\$200.00
4	Fail to supervise fire	S. 2.5	\$200.00
5	Set fire during fire ban	S. 2.6	\$500.00
6	Burn prohibited materials	S. 2.7	\$200.00
7	Burn materials which do not originate from burn site	S. 2.8	\$200.00
8	Allow fire in prohibited zone	S. 3.1	\$200.00
9	Set or allow recreational fire within 10 meters of prohibited location	S. 3.2	\$200.00
10	Set or allow non-recreational fire within 15 meters of prohibited location	S. 3.3	\$200.00
11	Set or allow fire on public highway or land without a permit	S. 3.4	\$200.00
12	Set or allow fire without consent of land owner	S. 3.5	\$200.00
13	Set or allow fire on land where construction is ongoing	S. 3.6	\$200.00
14	Set or allow non-recreational fire between sunset and sunrise	S. 3.7	\$200.00
15	Set or allow non-recreational fire without a permit	S. 3.8	\$200.00
16	Set or allow fire without regard to wind direction or intensity	S. 3.10	\$200.00

The penalty provisions for the offences listed above is Section 5 of By-Law 2017-034, a certified copy of which has been filed. Approved by the Ontario Court of Justice: July 26, 2017