

By-Law No. 2023-40

Being a By-Law to regulate open-air burning within the municipality in the Township of Dubreuilville.

WHEREAS the Council of the Corporation of the Township of Dubreuilville deems it necessary to regulate the open air burning within the Township of Dubreuilville;

AND WHEREAS *section 7.1 (1) (a) of the Fire Protection and Prevention Act, 1997*, as amended, authorizes the municipality to pass by-laws to regulate the fire prevention, including the prevention of the spreading of fires;

AND WHEREAS *section 7.1 (1) (b) of the Fire Protection and Prevention Act, 1997*, as amended, authorize the municipality to pass by-laws regulating the setting of open-air fires, including establishing the times during which open fires may be set;

AND WHEREAS *Section 11 (2) (6) of the Municipal Act, 2001, S.O. 2001, Chapter 25*, as amended, authorizes Council to pass by-laws concerning health, safety and well-being of persons;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Township of Dubreuilville enacts as follows:

SHORT TITLE

1. This By-law may be referred to as the "Open Air Burning By-Law".

DEFINITIONS

2. In this by-law:

- a) "Act" means the *Fire Protection and Prevention Act, 1997, S.O. 1997, c.4*;
- b) "Administrative penalty" means a monetary penalty that can be issued to a person or corporation found in violation of the provisions of the by-law, established by by-laws passed by the Township, *the Provincial Offences Act, R.S.O. 1990* or *the Municipal Act, 2001*.
- c) "Agricultural/Industrial Burn" means any burn subject to the Agricultural/Industrial Burn portion of this bylaw;
- d) "Appliance" means a household device either fixed or portable;
- e) "Approved Fire Pit"
 - I. a pit dug into the ground or made from stones, masonry, steel or other fire-resistant material used for the purposes of containing a recreational fire of which the interior dimensions shall be no larger than one metre by one metre (3 feet by 3 feet); and
 - II. above-ground pre-manufactured chimeneas and other like receptacles designed and constructed for the purposes of containing a small recreational fire.
- f) "Barbeque" means a gas or propane powered appliance that is designed and intended for the sole purpose of cooking food in the open air; and includes a hibachi, but does not include devices designed for personal warmth, fire pits or campfires;

- g) "Building" means:
- I. a structure occupying an area greater than ten square metres (107.639 square foot) consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
 - II. a structure occupying an area of ten square metres (107.639 square foot) or less that contains plumbing, including the plumbing appurtenant thereto; and,
 - III. structures designated in the *Building Code*, as amended;
- h) "Council" means the Council of the Corporation of the Township of Dubreuilville;
- i) "Fire Chief" means the appointed Fire Chief of the Township under provisions of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*; for any or all Fire Department catchment areas as designated by Council, or his or her designate;
- j) "Fire Ban" means a partial or total ban against any Open-Air Fire in the Township as declared by the Municipal Law Enforcement Officer / Fire Chief or by the Province;
- k) "Firewood" means clean, dry wood that has not been treated, painted or otherwise exposed to toxic material, cut to a maximum of 60 cm (24 inches) in length so as to easily be situated in an approved fire pit;
- l) "Incinerator" means an enclosed device constructed entirely of non-combustible material and is noted under s. 21, i. of "Open Air Burning By-Law" By-Law 2023-40;
- m) "Municipal Law Enforcement Officer" means the Municipal Law Enforcement Officer appointed by the Township of Dubreuilville or their agent, other municipal employee appointed as an Officer for the Township;
- n) "Municipality" means the land within the geographic limit of the Township of Dubreuilville;
- o) "Open Air Fire" means any fire that takes place outside of a Building or structure;
- p) "Owner" means the registered owner or occupant of a property;
- q) "Permit" means a permit issued by the Municipal Law Enforcement Officer or the Fire Chief to permit a person to set, light, ignite and maintain an open air fire;
- r) "person" means an individual or corporation;
- s) "Prohibited Material" means materials that are, but not limited to, automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, asphalt, shingles, rubber, construction materials, insulation, and flammable or combustible liquids or accelerants;
- t) "Recreational Fire" means an open-air fire that complies with the provisions of section 20 of this "Open Air Burning By-Law" By-Law 2023-40;
- u) "Township" means the geographic area comprising the Township of Dubreuilville.

GENERAL PROHIBITIONS

3. No person shall set, light, ignite, or maintain an open-air fire, or permit an open-air fire to be set, lit, ignited or maintained, at any time, without first obtaining a permit.
4. No person shall set, light, ignite, or maintain an open-air fire, or permit an open-air fire to be set, lit, ignited or maintained, at any time, in the Settlement Area, except if it is a Recreational Fire.
5. No person shall offer for sale, set, light, ignite or maintain a flying lantern, or permit a flying lantern to be sold, set, lit, ignited or maintained, at any time.

6. No person shall burn or permit to be burnt any of the following materials, but not limited to, automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, asphalt, shingles, rubber, construction materials, wood material that has been treated or painted, insulation and flammable or combustible liquids or accelerants.
7. No person shall set, light, ignite, or maintain an open air fire, or permit an open air fire to be set, lit, ignited or maintained, no sooner than 2 hours before sunset, and the fire must be extinguished no later than 2 hours after sunrise, unless such open-air fire is a recreational fire in an approved fire pit or an approved agricultural/industrial burn plan.
8. No person shall leave an open-air fire unattended or unsupervised at any time.
9. No person shall light, ignite, or maintain an open-air fire, or permit an open-air fire to be set, lit, ignited or maintained, in an area that could potentially endanger any buildings or structures, or any persons located nearby, in or occupying those buildings or structures.
10. No person shall use, or cause to be used, any barbeque of any kind on any balconies of multi-residential building.
11. No person shall set, light, ignite, or maintain an open-air fire, or permit an open-air fire to be set, lit, ignited or maintained, which creates a nuisance for any person such as, but not limited to:
- a) excessive smoke or odour;
 - b) a decrease in visibility on roads or highways; or
 - c) a rapid spread of fire through grass, brush or any wooded area.
12. No person shall set, light, ignite or maintain an open-air fire, or permit an open-air fire to be set, lit, ignited, or maintained, during a fire ban or restricted fire zone.

FIRE BANS

13. The Municipal Law Enforcement Officer or Fire Chief may declare a Fire Ban in the Township at anytime.

PERMITS

14. Following the receipt of an application for a permit, the Municipal Law Enforcement Officer or Fire Chief may approve or refuse a permit with such conditions as necessary, as determined by the Fire Chief and every person who receives a permit shall comply with the conditions of the permit.
15. The Municipal Law Enforcement Officer or Fire Chief may suspend or revoke a permit at any time:
- a) For non-compliance with this by-law;
 - b) For non-compliance with one or more of the conditions of the permit; or
 - c) If a dangerous condition exists at or near the proposed site for the open-air fire.

16. Permits are non-transferable.

17. All Permits shall be deemed to be suspended during a municipal fire ban or during a restricted fire zone declared by the Ontario Ministry of Natural Resources and Forestry.

18. An application for a permit under this by-law shall be in the form prescribed by the Municipal Law Enforcement Officer or Fire Chief.

OPEN AIR FIRE REGULATION

19. All open-air fires require the applicable burn permit, which is the newest, and most current burn permit as of the permit issue date.

20. In order to obtain a permit, the property on which the open-air fire is to occur must comply with the following, except if it is a recreational fire or agricultural/industrial burn or chimenea, which are subject to the amendments noted under each section.

- a) The property must have a lot size greater than 0.4 hectare (1 acre)
- b) The sole purpose of the open-air fire must be the disposal of materials other than prohibited materials.

21. A person who obtains a permit, shall always comply with the following regulations, except if the permit relates to a recreational fire or agricultural/industrial burn:

- a) Open-air fires shall not be set, lit, ignited or maintained, within 30 meters (100 feet) of any building or structure, grass, grain field, bush, or wood lot;
- b) Open-air fires shall not exceed 2 meters (6.5 ft) in diameter, or an area of 2 meters x 2 meters (6.5 ft x 6.5 ft);
- c) The stacked height of the materials to be burned in an open-air fire shall not exceed 2 meters (6 feet);
- d) Open-air fires shall not be set, lit, ignited or maintained, if winds exceed 16 km/h (10mph);
- e) Prior to setting, lighting, or igniting an open-air fire, the person who obtained the permit shall notify the Municipal Law Enforcement Officer, Fire Chief or designate; and
- f) Appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plow) shall be on-hand at all times during the preparation of the open-air fire, while the open-air fire is underway, and until the open-air fire is fully and completely extinguished;
- g) A responsible person is available to attend the fire until extinguished;
- h) Only one pile shall be burned at a time;
- i) As well as the portions from section/subsection 21. a, d, f. g. of By-Law 2023-40 "Open Air Burning By-Law" an incinerator must meet the following criteria; be an enclosed device constructed entirely from non-combustible materials, at least 10 meters (33 feet) from any forest, woodland, combustible materials, as well as the outlet of the incinerator being covered with a screen having a mesh size of not more than five millimeters (0.19685 inches) and the incinerator is situated on bare rock or bare mineral soil;
- j) As well as the portions from section/subsection 21. d, e, f, g. of By-Law 2023-40 "Open Air Burning By-Law" burning of grass and leaves must meet the following criteria: area to be burned is no greater than 1 hectare (2.54 acres); the length of the flaming edge is less than 30 metres.

22. A person who obtains a permit for a recreational fire shall always comply with the following regulations:

- a) A recreational fire is permitted within the settlement areas;
- b) Recreational fires must be in approved fire pits;
- c) Recreational fire shall not exceed 1 meter (3 feet) in diameter, or an area of 1 meter by 1 meter (3 feet by 3 feet);
- d) The stacked height of materials being burned in a recreational fire shall not exceed 1 meter (3 feet) in height;
- e) Recreational fires may only be used for warmth or the cooking of food;
- f) Only firewood may be used as the combustible material in a recreational fire;
- g) Recreational fires shall not be set, lit, ignited or maintained, within 4 meters (13 feet) of any building or structure, grain field, bush, or wood lot;
- h) Recreational fires shall not be set, lit, ignited or maintained if winds exceed 10 mph (16 km/h); and

- i) Appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plows) shall be on-hand at all times during the preparation of the recreational fire, while the recreational fire is underway, and until the recreational fire is fully and completely extinguished;
- j) A responsible person is available to attend the fire until extinguished.

23. A person who obtains a permit for a chimenea shall always comply with the following regulations:

- a) shall not be set, lit, ignited or maintained, within 4 meters (13 feet) of any building or structure, grain field, bush, or wood lot and shall not be ignited or maintained if winds exceed 10 mph (16 km/h); and;
- b) Appropriate extinguishing agents (e.g. water hose, sand, and/or fire extinguishers) shall be on-hand at all times during the preparation of the chimenea fire, while the chimenea fire is underway, and until the chimenea fire is fully and completely extinguished;
- c) Must have a spark arrester, as per the Ontario Building Code;
- d) Only permitted to burn properly seasoned wood products;
- e) Must be placed on a non-combustible base;
- f) Must be always supervised during use.

24. A person who obtains a permit for an agricultural/industrial burn shall always comply with the following regulations:

*Note all portions of s. 21 of By-Law 2023-40 "Open Air Burning By-Law" go for any agricultural/industrial burn

- a) The person responsible must do everything possible to avoid building piles in muskeg areas;
- b) Eliminate as much dirt from the roots and do not pack the windrows tight. Air circulator around the piles/windrows is necessary to aid in combustion and subsequent consumption of fuels;
- c) Ensure that windrows are not longer than 30 meters (100 feet) and no wider than 3 meters (10 feet);
- d) Ensure that a minimum of 10 meters (33 feet) break is created between the ends of each windrow;
- e) Ensure that all windrows/piles are 25 meters (75 feet) from standing timber & 35 meters (115 feet) from any structures;
- f) The approved current municipal burn plan form must be filled out in its entirety by the applicant;
- g) Appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plows) shall be on-hand at all times during the preparation of the fire, while the fire is underway, and until the fire is fully and completely extinguished;
- h) Agricultural/industrial fires shall not be set, lit, ignited or maintained, if winds exceed 16 km/h (10mph);
- i) Prior to setting, lighting, or igniting an agricultural/industrial fire, the person who obtained the permit shall notify the Municipal Law Enforcement Officer or Fire Chief

25. This by-law shall not apply to:

- a) The Fire Department of the Township for the purposes of live fire training exercises and operational requirements;

- b) The Corporation of the Township of Dubreuville, where authorized by the Municipal Law Enforcement Officer or Fire Chief;
- c) The Ministry of Natural Resources and Forestry, where authorized by the Municipal Law Enforcement Officer or Fire Chief.

INSPECTION

26. A Police Officer, Municipal Law Enforcement Officer, Fire Chief or designate may enter upon land and/or into structures at any reasonable time to inspect the land and/or structures to determine whether this by-law is being complied with.

27. Prior to a permit being issued under this by-law, the Municipal Law Enforcement Officer or Fire Chief may require an inspection of the property for which an open-air fire permit is being applied and/or inspect the materials that are proposed to be burned.

ORDER TO DISCONTINUE ACTIVITY

28. If the Municipal Law Enforcement Officer or Fire Chief is satisfied that a contravention of this by-law has occurred, they may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity.

29. An order made under s.28 of this "Open Air Burning By-Law" By-Law 2023-40 shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- b) the date by which there must be compliance with the order.

30. Any person who contravenes an order under s. 28 of this "Open Air Burning By-Law" By-Law 2023-40 is guilty of an offence.

WORK ORDER

31. If the Municipal Law Enforcement Officer or Fire Chief is satisfied that a contravention of this by-law has occurred, they may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to correct the contravention.

32. An order under s. 31 of this "Open Air Burning By-Law" By-Law 2023-40 shall set out:

- a) Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- b) The work to be done to correct the contravention and the date by which the work must be done.

33. An order under s. 31 of this "Open Air Burning By-Law" By-Law 2023-40 may require work to be done even though the facts which constitute the contravention of this by-law were present prior to the date on which this by-law came into force.

34. A person who contravenes an order under s. 31 of this "Open Air Burning By-Law" By-law 2023-40 is guilty of an offence.

REMEDIAL ACTION

35. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the Township may, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense.

36. The Township may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

37. The costs s. 35 of this "Open Air Burning By-Law" By-Law 2023-40 shall include interest calculated at a rate of 15 per cent or such lesser rate as may be determined by the Township, calculated for the period commencing on the day the Township incurs the costs and ending on the day the costs, including the interest, are paid in full.

38. The amount of costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under s. 36 "Open Air Burning By-Law" By-Law 2023-40 to the date the payment is made. Upon receiving the payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office.

ENFORCEMENT

39. This by-law may be enforced by A Police Officer, Municipal Law Enforcement Officer, Fire Chief or designate.

OBSTRUCTION

40. No person shall hinder or obstruct a Municipal Law Enforcement Officer, Fire Chief or person appointed by the Council, who is lawfully carrying out enforcement of performing a duty under this by-law.

41. No person shall fail to identify themselves to the Municipal Law Enforcement Officer, Fire Chief or person appointed by the Council, if they have been alleged to have contravened any of the provisions of this by-law.

PENALTIES

42. Any person who contravenes a designated provision of this By-law is guilty of an offence, and, when given a Penalty Notice, in accordance with the Administrative Monetary Penalty System (herein after, "AMPS By-law"), be liable to pay to the Township an administrative penalty as set out in the schedules attached to the AMPS By-law (as amended from time to time).

43. Any person who contravenes any of the provisions of this By-law, except a designated provision, is guilty of an offence and upon conviction is liable to a penalty as provided for in the *Provincial Offences Act, R.S.O. 1990, c.p. 33* (as amended from time to time) or any successor thereof.

SCHEDULES

44. Provisions of this By-law that allow for financial penalties shall be updated and attached to the schedules of the administrative penalties found in the AMPS By-law (as amended from time to time).

45. Schedule "A" is attached and forms part of this by-law.

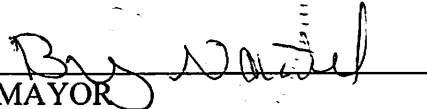
SEVERABILITY

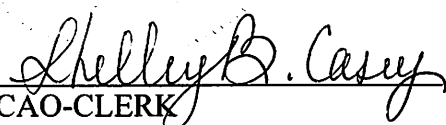
46. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

47. That By-Law 2004-32 is hereby repealed in its entirety.

48. That this By-law shall come into force and take effect upon the passing thereof.

READ a first, second and third time and be finally passed this 24th day of May 2023.


MAYOR


CAO-CLERK

SCHEDULE "A"

SET FINES OPEN AIR BURNING BY-LAW 2023-40

Item	Column 1	Column 2	Column 3
	Short Form Wording	Provision creating or defining offence	Set fine
1	Set or maintain fire/Permit a fire to burn without a permit	Section 3.	\$125
2	Burn/Permit a fire to burn with prohibited materials	Section 6.	\$125
3	Set or maintain fire/Permit a fire to burn outside of permitted hours	Section 7.	\$125
4	Failure to supervise burning	Section 8.	\$125
5	Set or maintain or permit fire which causes nuisance to residents	Section 11.	\$125
6	Burn or Permit burning during a fire ban or Restricted Fire Zone.	Section 12.	\$200
7	Failure to follow permit conditions	Section 14.	\$125
8	Permit a fire to burn within 30 meters (100 feet) of any building, structure, grass, wood lot or other	Section 21. (a)	\$125
9	Open air fire- exceed size allowance	Section 21. (b)	\$125
10	Open air fire - exceed height allowance	Section 21. (c)	\$125
11	Set open air fire - winds greater than 16 kph (10 mph)	Section 21. (d)	\$125
12	Set open air fire - fail to notify Municipal Law Enforcement Officer or Fire Chief	Section 21. (e)	\$125
13	Burning without adequate extinguishment equipment.	Section 21. (f)	\$125
14	Incinerator- fail to comply with specifications	Section 21. (i)	\$125
15	Burn grass and leaves - exceed size allowance	Section 21. (j)	\$125
16	Recreational fire- exceed size allowance	Section 22. (c)	\$125
17	Recreational fire - exceed height allowance	Section 22. (d)	\$125
18	Recreational fire - winds greater than 16 kph (10 mph)	Section 22. (h)	\$125
19	Recreational fire - Burning without adequate extinguishment equipment.	Section 22. (i)	\$125
20	Set/maintain Chimenea fire - winds greater than 16 kph (10 mph)	Section 23. (a)	\$125
21	Set/maintain Chimenea fire without adequate extinguishment equipment.	Section 23. (b)	\$125
22	Agricultural/industrial fire- exceed size allowance	Section 24. (c)	\$125
23	Agricultural/industrial fire - Burning without adequate extinguishment equipment.	Section 24. (g)	\$125
24	Agricultural/industrial fire - winds greater than 16 kph (10 mph)	Section 24. (h)	\$125
25	Agricultural/industrial fire - fail to notify Municipal Law Enforcement Officer or Fire Chief	Section 24. (i)	\$125
26	Hinder or obstruct an Officer/appointed person lawfully carrying out duties	Section 40	\$300
27	Failure to identify themselves to an Officer/appointed person while in contravention of this By-law	Section 41	\$200

Schedule "A", SET FINES, is considered part of this By-law. Set fines take effect on the date of ORDER attached to this By-law.

COUNCIL RESOLUTION

Moved By: Hélène
Seconded By: Luc

DATE: May 24, 2023

Resolution No. 23-113

Whereas that By-Law No. 2023-40, being a By-law to regulate open-air burning within the municipality in the Township of Dubreuilville, be adopted as presented.

 <u> </u> Carried	<u> </u> Defeated	<u> </u> Deferred
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RECORDED VOTE:	YES	NO
Councillor Hélène Perth	_____	_____
Councillor Luc Lévesque	_____	_____
Councillor Julila Hemphill	_____	_____
Councillor Krystel Lévesque	_____	_____
Mayor Beverly Nantel	_____	_____

Declaration of Pecuniary Interest and General Nature Thereof: