

**THE CORPORATION OF
THE TOWNSHIP OF BRUDENELL, LYNDOKH AND RAGLAN**

BY-LAW NO. 2020-41

**BEING A BY-LAW TO REGULATE OPEN AIR
BURNING WITHIN THE TOWNSHIP OF BRUDENELL, LYNDOKH AND RAGLAN**

WHEREAS, Section 8, Municipal Act 2001, Chapter 25, as amended, provides 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;

AND WHEREAS, the Fire Protection and Prevention Act, 1997, Part II, Section 7.1 (1) (b) provides the Municipality the authority to allow and regulate Open Air burning;

AND WHEREAS, Section 391 (1) (a) of the Municipal Act s.0 2001, as amended authorizes a Municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS, the Council of the Corporation of the Township of Brudenell, Lyndoch and Raglan deems it necessary to set standards for Open Air burning according to the provisions of Section 7.1(1) of the Fire Protection and Prevention Act, 1997, Chapter 4, for the entire Township;

AND WHEREAS, the Council of the Corporation of the Township of Brudenell, Lyndoch and Raglan deems it expedient to allow Open Air burning and to establish a permit system to control and/or regulate such activity;

NOW THEREFORE, the Council of the Township of Brudenell, Lyndoch and Raglan enacts as follows: This By-Law shall be known as the Open Air Burning By-Law.

1.0 DEFINITIONS

1.1 In this By-Law, unless the context otherwise specifies:

"Approved Pit" means an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15 cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the limit of the fuel used for a campfire. No flammable materials shall be any closer than two feet around the pit and ten feet over top of the pit at any time.

"Authorized Agent" means any person authorized by the Fire Chief or the Council of the Township to carry out such duties.

"Burn Barrel" means a container regardless of construction, covered with screen having a mesh size of not more than 12mm (1/2"), and having a fuel capacity of no more than three (3) cubic meters in which a fire can be set or maintained for the purpose of burning materials.

"Burn Permit" means a permit issued by the Corporation of the Township of Brudenell, Lyndoch and Raglan signifying permission to set or maintain or allow to be set or maintained an Open Air Fire and lists the conditions under which permission is granted.

"Campfire" means an Open Air Fire, having a maximum fuel volume of .5 meter x .5 meter x .5 meter (2 feet x 2 feet x 2 feet) with a flame height no higher than 1 meter, that is set or maintained in an approved pit or outdoor fireplace and is used solely for the purposes of cooking food, providing warmth or recreational enjoyment.

"Chinese Lantern" also known as a sky lantern, means a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended.

"Council" means the elected council of the Corporation of the Township of Brudenell, Lyndoch and Raglan.

"Extinguished" shall mean no longer capable of producing flame, heat or smoke.

"Fire Chief" means an officer of the Fire Department appointed as such by Municipal By-Law and includes his or her designate.

"Fire Department" means the Fire Department of the Corporation of the Township of Brudenell, Lyndoch and Raglan.

"Fire Season" means the period from the 1st day of April to the 31st day of October in each year.

"Fireworks" means a device containing gunpowder and other combustible chemicals that cause a spectacular explosion when ignited, used typically for displays at celebrations.

"Household Waste" means any solid waste composed of garbage or rubbish, which normally originates in a private home or apartment.

"Incinerator" means an enclosed apparatus for burning materials at high temperatures until it is reduced to ash but does not include outdoor furnaces.

"**Open Air Fire**" means a fire set in the Open Air for the purpose of burning clean wood, clean wood wastes, grass and wood by-products, this includes fires in barrels, incinerators and pits, but does not include campfires or barbeques.

"**Outdoor Furnace**" means, but is not limited to, any enclosed device, appliance, equipment, apparatus or structure that is designed, intended and/or used to provide heat and/or hot water to any associated structure which operates by burning wood or any other approved fuels and includes paper pellets, corn, wood pellets or agricultural products. It shall not be located within the structure to be heated and includes but is not limited to devices referred to as wood furnaces, outdoor boilers or hydronic heaters.

"**Person**" includes an association, firm partnership, or corporation.

"**Prohibited Materials**" shall mean any object or material identified by the Ministry of the Environment as being hazardous, such as but not limited to household waste, petroleum products, vehicles, plastics, rubber, painted and/or treated lumber, asphalt shingles, aerosol cans, furniture, carpeting, nylon, fiber glass, fuel tanks, mattresses, styrofoam, feces, or any other items that could cause noxious or toxic smoke or fumes.

"**Township**" means The Corporation of the Township of Brudenell, Lyndoch and Raglan.

2.0 GENERAL REGULATIONS & SAFETY

2.1 Any person setting, maintaining or permitting the ignition or maintenance of an Open Air Fire at any time shall ensure that the burning is done strictly in accordance with all fire regulations and safety precautions.

2.2 A person over the age of 18 shall be in attendance and shall supervise any and all Open Air Fires until they are fully extinguished.

2.3 Every person shall maintain equipment i.e. shovels, rakes, water and sufficient manpower capable of controlling and quickly extinguishing Open Air Fires at the site of the fire until completely extinguished.

2.4 The Setting of fires shall be permitted at the following times and every person shall comply with all requirements:

- a) Between April 1st and October 31st, no person shall set an Open Air Fire (with the exception to campfires as defined in this By-Law) no earlier than 7PM and must be extinguished no later than 7AM.
- b) Between November 1st and March 31st Open Air Fires may be set at any time during the day provided all other applicable regulations to this By-Law are followed.

2.5 No person shall, despite the time of year or having a permit, set an Open Air Fire in the presence of high winds or wind gusts (10km/h +) or any other adverse weather conditions.

2.6 No Person shall at any time:

- a) Set, maintain or allow to be set or maintained any Open Air Fire in the Township of Brudenell, Lyndoch and Raglan between April 1st and October 31st without first obtaining a Burn Permit from the Township or its authorized agent **for any Open Air Fire that is not a campfire.**
- b) Set, allow or cause to be set any fire that is oversized. The maximum allowable fuel volume shall be 3 cubic meters for fires requiring a permit which are set and maintained for the sole purpose of burning piled brush, piled natural vegetation or other piled wood wastes/by-products, unless otherwise approved by the Fire Chief or designate. All other Open Air Fires (campfires) shall not exceed a one half (.5) cubic meter fuel volume.
- c) When burning grass the total area burned shall not exceed 1 acre and the flaming edge of the fire must not exceed 10 meters in length unless otherwise approved by the Fire Chief or designate.
- d) Deploy, set off or allow for the deployment of Chinese lanterns.
- e) Allow any household waste or prohibited materials to be burned in any Open Air Fire, as well as outdoor furnaces, burn barrels and incinerators.
- f) Regardless of obtaining a Burn Permit, sanction any Open Air Fire to burn in such a manner as to:
 - i. Allow smoke or discharge from such fire to interfere with the enjoyment of adjoining lands.
 - ii. Allow smoke or discharge from such fire to create or cause a health hazard.
 - iii. Allow the smoke from such fire to impede visibility on any highway.

2.7 No person shall operate any burn barrels or incinerators without having their openings covered with a screen mesh having holes no larger than 12mm (1/2"). When burn barrels, incinerators and outdoor furnaces are in use they shall only burn: approved fuels, clean wood, clean wood wastes, wood by-products (dry non glossy paper, cardboard), and natural vegetation (grass and leaves).

2.8 No person shall burn any:

- a) Building or structure of any kind or size unless approved by the Fire Chief or designate.
- b) Prohibited materials as defined in this By-Law and by the Ministry of the Environment; or any
- c) Pesticides, insecticides, herbicides.

2.9 No person shall set or cause to be set any Open Air Fire:

- a) On any public or Township property unless approved by the Fire Chief or designate.
- b) Within 10 meters (30 feet) of a highway and/or road allowance, building, abutting property and heavily vegetated areas.
- c) Within 5 meters (15 feet) of any flammable/combustible materials.

2.10 All persons setting an Open Air Fire within the Township of Brudenell, Lyndoch and Raglan shall:

- a) Be responsible for any damage to property or injury to persons occasioned by the said fire; and
- b) Be liable for costs incurred by the fire department, including personnel, equipment, outside agency assistance and apparatus called to extinguish the fire.

3.0 FIRE BANS

3.1 Fire Chief may, at any time, and in the exercise of his or her sole discretion, issue a fire ban, effective for a specified period of time, prohibiting the setting of any or all Open Air Fires within any area of the Township based on MNRF Guidelines, MNRF indices and/or local conditions.

3.2 **Level One (1) Fire Ban** shall mean a **PARTIAL FIRE BAN** which limits Open Air burning. No person shall set, maintain or allow any Open Air Fire during a Level One (1) Fire Ban with the exception to: campfires as defined in this By-law, enclosed barbeques fueled by propane or charcoal, outdoor furnaces, fireworks, chimineas and rocket stoves.

3.3 **Level Two (2) Fire Ban** otherwise known as a **TOTAL FIRE BAN** shall mean absolutely no Open Air burning in all areas of the Township including but not limited to private residences, cottages and rough camping on private or crown land but does not include public or private campgrounds.

No person shall at any time while a Level Two (2) Fire Ban is in effect:

- (a) Set, maintain or allow any Open Air Fire including but not limited to campfires, outdoor wood fireplaces, candles, flares, tiki torches, rocket stoves and wood/charcoal barbeques. Propane fueled appliances (barbeques, portable fire pits, etc.) equipped with a mechanical shut off shall be exempt from Section 3.0 of this By-Law.
- (b) Set, maintain or allow a fire in any burn barrel or incinerator.
- (c) Deploy, set off or allow for the deployment or setting off of fireworks.

3.4 Throughout fire season fire risk shall be displayed on signs at each fire station. During a Level Two (2) Fire Ban additional signage will be placed in various locations throughout the Municipality. No person shall tamper with or vandalize any signage in relation to fire risk or fire ban status.

3.5 The Fire Chief will assess the need for a total or partial fire ban on a daily basis and will downgrade or cancel the fire ban as soon as possible based on MNRF indices and local conditions.

3.6 The Fire Chief may in his or her power grant special permission for usage of wood/charcoal barbeques, rotisseries and barrel cookers for special occasion purposes during a Level Two (2) Fire Ban provided 48 hours notice is given to the Fire Chief and all requirements as laid out in writing by the Fire Chief are met.

3.7 During a Level 1 or 2 Fire Ban, **ALL BURN PERMITS ARE SUSPENDED; NO NEW PERMITS MAY BE ISSUED AND/OR ACTIVATED.**

4.0 REVOCATION OF PERMITS

4.1 Notwithstanding any other provision of this By-Law, the Fire Chief or designate may revoke any or all permits, or refuse to issue permits where one or more of the following conditions exist in respect of, or in proximity to, the proposed Open Air Fire Site:

- a) A lack of precipitation that, in the opinion of the Fire Chief, increases the risk of the spread of fire;
- b) Winds that, in the opinion of the Fire Chief, increase the risk of the spread of fire;
- c) The issuance, by the Fire Chief, Fire Marshall, or MNRF official in the exercise of their statutory powers, of a fire ban or prohibition against any and all Open Air Fires (Restricted Fire Zone); or
- d) Any other condition that in the opinion of the Fire Chief will increase the risk of the spread of fire.

5.0 ADMINISTRATION AND ENFORCEMENT

5.1 This By-Law shall be administered and enforced by the Fire Chief, Deputy Fire Chief or anyone known to be an assistant to the Fire Marshal as designated by the Fire Chief.

5.2 No person shall hinder or otherwise obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an Officer, employee and/or Authorized Agent of the Township in the lawful exercise of a power or duty under this By-Law.

5.3 Every person shall comply with any Order or Notice issued under the authority of this By-Law.

6.0 INSPECTION POWERS

6.1 The Fire Chief, Deputy Fire Chief or any Fire Department Member designated by the Fire Chief may at any time inspect any Open Air Fire to ensure that the provisions of this By-Law have been and are being complied with and the person(s) who has care and control of such fire shall provide such person with free and unobstructed access to the Open Air Fire.

6.2 Upon inspection and under the powers of Section 5.0 of this By-Law, the Fire Chief, Deputy Fire Chief or designated Fire Department Member shall:

- a) Be entitled to request and have produced any relevant permits issued by the Township or its authorized agent in respect to the Open Air Fire that is being inspected; and;
- b) Where there are reasonable and probable grounds that any offence under this By-Law has been committed, request any person(s) believed to have committed such offence to provide suitable identification and information; and:
- c) Where there are reasonable and probable grounds that any offence under this By-Law has been committed, order the person(s) to immediately extinguish the fire. Where such person(s) refuse to extinguish or do not have resources available to extinguish the fire, call for such assistance as is required under the circumstances to aid in extinguishing the fire.

7.0 PENALTIES

7.1 Any person who contravenes any provision of this By-Law is guilty of an offence and may be subject to such fees or charges as described in this By-Law under **Annex "A"** Part 1 *Provincial Offences Act*.

7.2 In addition to any fines or penalties levied by the court upon conviction of any offence under this By-Law, the person(s) responsible for setting, maintaining, or permitting to be set or maintained an Open Air Fire shall be liable, to the Township by way of fee or service charge, in accordance with **Annex "B"** to this By-Law on account of those costs and expenses incurred by the Township in:

- (a) Investigating and responding to a complaint made to the Township or the Fire Department by any person acting reasonably and in good faith of a possible violation under this By-Law.
- (b) Investigating and responding to a complaint made to the Township or the Fire Department by any person acting reasonably and in good faith, which complaint results from setting and/or maintenance of the Open Air Fire and, in the opinion of the Fire Chief or his/her designate, smoke or emissions from such Open Air Fire were causing or had caused actual discomfort to the complainant.

(c) The dispatching of Fire Department vehicles and fire-fighting personnel for the purpose of responding to complaints and/or extinguishing fires, and shall include administration fees for the issuance of such charge.

7.3 Where the person(s) liable for any offence under this By-Law admit to the offence, The Fire Chief may at his or her discretion stay the laying of fines for offences where that person(s) are willing to sign an agreement with the Municipality to pay the actual costs incurred by the Municipality in responding to the incident or offence by means of service charge.

7.4 All fees and charges payable under this By-Law are due and owing to the Township within thirty (30) days of the date of an invoice rendered to the person liable to pay them.

7.5 All overdue accounts shall accrue interest at the rate of 1.25% per month (15% per annum), calculated monthly, from the due date until paid in full.

7.6 All fees/service charges payable under this By-Law constitute a debt of the person liable for payment of them to the Township and, in the case of owners of a property being responsible for payment of the service charges, the Township may add the amount owing to the tax roll for the owner(s) real property and collect them in like manner as Municipal taxes.

7.7 If a person who sets or maintains an Open Air Fire contrary to this By-Law is not the owner of the property but occupies or is using the property with the owner's consent, the owner and the person conducting the Open Air burning shall be jointly and severally liable to pay any fees and/or service charges imposed by this By-Law.

8.0 PENALTY PROVISIONS

Every person who contravenes or causes or permits the contravention of any provision of this By-Law is guilty of an offence and upon conviction is liable, pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

9.0 SEVERABILITY

A decision of a competent court that one or more provisions of this By-Law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or part of provisions of this By-Law.

10.0 REPEAL OF EXISTING BY-LAWS

By-Law NO. 2020-30 is hereby repealed.

11.0 BY-LAW COMING INTO EFFECT

This By-Law shall come into force on the day it is passed.

READ A FIRST AND SECOND TIME THIS 7TH DAY OF OCTOBER, 2020.
READ A THIRD TIME AND PASSED THIS 7TH DAY OF OCTOBER, 2020.

Mayor, Sheldon Keller

Clerk, Michelle Mantifel

TOWNSHIP OF BRUDENELL, LYNDOKH AND RAGLAN
ANNEX "A" TO BY-LAW NO. 2020-41: OPEN AIR BURNING BY-LAW
PART 1 PROVINCIAL OFFENCES ACT

	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	COLUMN 3 SET FINE
1	Fail to supervise fire	Section 2 (2.2)	\$200.00
2	Burning without adequate extinguishment devices	Section 2 (2.3)	\$150.00
3	Burning outside of prescribed fire season hours	Section 2 (2.4)(a)	\$200.00
4	Burning during adverse conditions	Section 2 (2.5)	\$250.00
5	Burning without a valid permit	Section 2 (2.6)(a)	\$500.00
6	Allowing an oversized fire	Section 2 (2.6)(b)	\$250.00
7	Burning too large of an area of grass or allowing flaming edge to exceed 10 meters	Section 2 (2.6)(c)	\$250.00
8	Allowing deployment of Chinese lantern	Section 2 (2.6)(d)	\$500.00
9	Open Air burning causing discomfort to adjoining properties	Section 2 (2.6)(f)(i)	\$150.00
10	Open Air burning causing adverse health effects	Section 2 (2.6)(f)(ii)	\$150.00
11	Open Air burning causing visibility issues on any public highway	Section 2 (2.6)(f)(iii)	\$150.00
12	Improper operation of a burn barrel or incinerator	Section 2 (2.7)	\$150.00
13	Burning of prohibited objects or materials	Section 2 (2.8)	\$500.00
14	Burning in a prohibited area	Section 2 (2.9)(a)	\$250.00
15	Burning too close to highways / buildings / abutting properties / heavily vegetated areas	Section 2 (2.9)(b)	\$250.00
16	Burning too close to flammable / combustible materials	Section 2 (2.9)(c)	\$250.00
17	Set or maintain fire during Level One Fire Ban	Section 3 (3.2)	\$500.00
18	Set or maintain fire during Level Two Fire Ban	Section 3 (3.3)(a)	\$500.00
19	Usage of burn barrel or incinerator during Level Two Fire Ban	Section 3 (3.3)(b)	\$500.00
20	Usage of fireworks during a Level Two Fire Ban	Section 3 (3.3)(c)	\$500.00
21	Unlawfully interfere with fire rating / warning signs	Section 3 (3.4)	\$200.00
22	Hinder/obstruct Officer	Section 5 (5.2)	\$200.00
23	Fail to comply with an order or notice	Section 5 (5.3)	\$200.00

NOTE: The penalty provision for the offences indicated above is Section 8 of By-Law NO. 2020-41, a certified copy of which has been filed.

TOWNSHIP OF BRUDENELL, LYNDOKH AND RAGLAN
ANNEX "B" TO BY-LAW NO. 2020-41: OPEN AIR BURNING BY-LAW
SCHEDULE OF FEES

- 1, Respond to and/or investigate complaint in regards to a possible Open Air burning violation.
 - a. Fee of \$75.00 per response payable by the person setting, maintaining or allowing such fire to be set or maintained if the complaint is substantiated.
 - b. Fee of \$75.00 per response payable by the complainant if the complaint is not substantiated.
 - (i) Fee may be waived at the discretion of the investigator if in their opinion the complaint was reasonable and made in good faith but investigation showed no violation under any section of this By-Law had occurred.
2. Dispatch of Firefighters.
 - a. To be calculated at current rate of pay per firefighter responding to the scene at one (1) hour minimum per firefighter and calculated on one half hour increments thereafter. Personnel times shall be calculated from the time they arrive on the scene until the time they leave the scene.
3. Dispatch of Fire Response vehicles actively involved in responding to a complaint and/or fire.
 - a. To be calculated at the current MTO (Ministry of Transportation) hourly rate for emergency vehicles, at a minimum of one (1) hour per vehicle then calculated on one half hour increments thereafter for every vehicle that responds. Vehicle times shall be calculated from the time it leaves the station until the time it returns to the station.
4. Other costs.
 - a. Fee of \$150.00 per service charge for administrative costs.