

## THE CORPORATION OF THE TOWN OF MIDLAND

### BY-LAW 2023-14

A By-law regulating the setting of open air fires, including establishing the times during which open air fires may be set and to repeal By-law 2015-52

**WHEREAS** pursuant to section 9 of the *Municipal Act*, 2001 S.O. 2001, chapter 25 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 128 of the *Municipal Act*, 2001 S.O. 2001, chapter 25 provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

**AND WHEREAS** sections 425, 426 and 429 of the *Municipal Act*, 2001 S.O. 2001, chapter 25, states a municipality may pass By-laws providing that a person who contravenes a By-law of the municipality passed under this Act is guilty of an offence, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a By-law passed under this Act and a municipality may establish a system of fines for offences under a By-law of the municipality passed under this Act;

**AND WHEREAS** pursuant to section 7.1 (1) of the *Fire Protection and Prevention Act*, 1997, c.4, 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 to regulate the setting of open air fires, including establishing the times during which open air fires may be set;

**AND WHEREAS** Section 7.1(3) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, provides that a by-law under this section may deal with different areas of the municipality differently;

**AND WHEREAS** Section 7.1(4) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, provides that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with Section 7.1 are being complied with;

**AND WHEREAS** Section 19(2) of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, provides an inspector may, without a warrant, enter and inspect land and premises for the purposes of assessing fire safety, and

**AND WHEREAS** Article 2.4.4.4. of the *Ontario Fire Code O. Reg. 213/07*, as amended, provides that open-air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire supervised at all times, and used to cook food on a grill, barbeque or spit, or such burning takes place in an appliance that is in conformance with the *Technical Standards and Safety Act*, 2000, S.O. 2000, c.16, is for outdoor use, and is assembled and/or installed in accordance with the manufacturer's instructions;

**AND WHEREAS** Section 391 of the *Municipal Act*, 2001, S.O. 2001, c. 25, provides that a municipality and a local board may pass by-laws imposing fees or charges for services or

activities provided or done by or on behalf of it, or for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board;

**AND WHEREAS** Section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides by-laws may be passed by all municipalities for providing that any person who contravenes any by-law of the municipality, passed under this Act, is guilty of an offence;

**AND WHEREAS** Section 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that where the municipality has the authority by any Act or under a by-law to direct or require a person to do a matter or thing, the municipality may also provide that, in default or it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the municipality may recover the costs of doing the matter or thing from the person 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;

**AND WHEREAS** the *Fire Protection and Prevention Act 1997*, and the Ontario Fire Code, O. Reg. 213/07, as amended Div. B s.2.4.4.4.(1) provides that open air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, used to cook food or a grill, barbecue or spit, commensurate with the type and quantity of food being cooked;

**AND WHEREAS** Council now deems it expedient to enact a by-law for regulating the setting of open air fire, including establishing the times during which open air fires may be set;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREBY ENACTS AS FOLLOWS:**

## 1. DEFINITIONS

For the purposes of this By-law, definitions in the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4., shall be used with respect to matters pertaining to fire prevention and fire safety and which are undefined in this By-law, otherwise the following definitions will apply and have the meaning given herein. Whenever the singular or masculine are used the same shall be construed as meaning the plural or the feminine where the context requires and vice versa:

- 1.1 **“Applicant”** means an **Owner** or person who is the **Authorized Agent** for an **Owner** applying for a **Burning Permit** for the property in which the permit is being issued for.
- 1.2 **“Approved”** means by the Chief Fire Chief or their Designate.
- 1.3 **“Agricultural Waste”** shall mean any animal fecal deposits or manure and animal carcasses.
- 1.4 **“Back-Yard”** means the space on the property behind the **Building**, on the side opposite from the street address side.
- 1.5 **“Ban”** on **Open Air Fires** means a restriction or prohibition on **Open Air Fires** issued by the **Fire Chief**.

- 1.6 “**Barbeque**” means any fuel-fired **cooking** device that is commercially manufactured, completely contains the fire, and expressly designed for the purpose of **cooking**.
- 1.7 “**Building**” means any **structure** used or intended for supporting or sheltering any use or **occupancy** but does not include a non-enclosed open-sided **structure**.
- 1.8 “**Burning Permit**” means a written, conditional, authorization issued and administered by the **Fire Chief** to set or maintain an **Open Air Fire** that is not an **Exempt** fire and pursuant to any restrictions and conditions contained in this By-law or as may be specified on the **Burning Permit** itself.
- 1.9 “**Burning Safety Plan**” means a formal statement of procedures and facilities provided by the **Applicant** and/or **Owner** and shall include provisions for facilitating emergency vehicle access and response, and **Open Air Fire** safety and control, and protection of the environment.
- 1.10 “**Chief Fire Official**” means Assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the fire department appointed by the Municipal Fire Chief under Subsection 1.1.8. of the Ontario Fire Code, 1997.
- 1.11 “**Chiminea**” means a device largely made from pottery or metal and which is equipped with a chimney and an enclosed **Hearth** in which a recreational fire may be set.
- 1.12 “**Combustible**” means any material, combination of materials. or arrangement of materials in which any portion thereof is susceptible to catch fire when exposed to heat, flame, or burning materials.
- 1.13 “**Cooking**” means the activity of preparing food for human consumption by placing it over a fire until such time as it is ready to eat and includes fire pre-burn time before the **Cooking** commences but only as is reasonably necessary.
- 1.14 “**Cooking Fire**” Means a small, contained fire no greater than 18 inches (50 Centimetres) in diameter and used to cook food on a grill. The fire shall be in a pit or permanent structure designed and intended for the cooking of food on a grill.
- 1.15 “**Construction and Demolition Wastes**” – Shall mean materials used in the construction of a serviceable unit such as drywall, wood, plywood, shingles, asphalt and plastic.
- 1.16 “**Deputy Fire Chief**” means a Town of Midland Deputy Fire Chief.
- 1.17 “**Exempt**” means that, under specified conditions, a particular type or configuration of **Open Air Fire** that does not require a **Burning Permit**.
- 1.18 “**Extinguish**” – Put out or quenched completely with no smoke, hot or growing embers remaining.
- 1.19 “**Fire**” means a fire that may be extinguished using on site resources, contains not more than 0.6 cubic metre of material burning at any one time and does not exceeding 0.6 metre in diameter.

- 1.20 "**Fire Chief**" means the appointed Fire Chief in the Town of Midland and, whether stated or not, also means their designates which may include a **Deputy Fire Chief**, a **Fire Prevention Officer**, or a **Firefighter**;
- 1.21 "**Fire Prevention Officer**" means a Town of Midland Fire Prevention Officer.
- 1.22 "**Firefighter**" means a Town of Midland firefighter.
- 1.23 "**Gas-fired outdoor campfire devices**" means listed ULC or CSA gas (natural, propane) appliances, which shall not constitute open air burning under this by-law.
- 1.24 "**Grill**" means any custom-designed fuel-fired **Cooking** device that is constructed of metal, ceramic, stone, or masonry, that completely contains the fire, and that has been **Approved** for use as a **Cooking** device.
- 1.25 "**Hearth**" means that part of a device in which a fire is set and maintained, and which is fully enclosed by the device and screens.
- 1.26 "**Heat Alert**" means any day or portion of a day when a heat advisory or alert has been issued by the Ministry of the Environment and Climate Change, for the Town of Midland.
- 1.27 "**Household Wastes**" Shall mean garbage, rubbish, discarded materials, paper products, plastic products, and other such articles as would normally accumulate at a serviceable unit.
- 1.28 "**Humidex**" means the level of relative humidity as calculated by Environment Canada within the geographical region of Midland, usually reported in the warmer months from May to September.
- 1.29 "**Incinerator**" means a device that is operated and regulated (licensed) under a Certificate of Approval from the Ministry of the Environment and Climate Change and is not subject to the requirements of this By-law.
- 1.30 "**Made Safe**" means that all reasonable and prudent steps are taken to guard against injury to persons due to a fire deteriorated condition of a **Structure** or property or the residue from a fire; including steps for the erecting of safety barriers and signs, grading of property, demolition of unstable **Structures** or materials, removal of residue left from the burning process, and/or ensuring that the fire is fully and completely extinguished.
- 1.31 "**Multi-Unit Residential Building**" means any **Building** in which there are three or more residential dwelling units as defined by the Ontario Building Code.
- 1.32 "**Nuisance**" means the travel of the products of a fire, including but not limited to, smoke, odour, ash, and hot embers, which products in the opinion of the **Fire Chief** may cause unreasonable discomfort to persons, loss of enjoyment of normal use of property, interference with normal conduction of business, or damage to property.
- 1.33 "**Occupancy**" means the use or intended use of a **Building** or part thereof as defined in the Ontario Building Code.
- 1.34 "**Occupant**" means a person or persons who are present on a property.

- 1.35 “**Officer**” means a Municipal Law Enforcement Officer, Police Officer, Chief Fire Official or Designate.
- 1.36 “**Open Air Fire**” means:
- Any fire set outdoors, i.e. not in a **Building**, or
  - Any fire set in a device or appliance located outside of a **Building**
  - But does not include
  - Fires in **Incinerators**, or
  - Fires in devices installed outside of a **Building** and that are used as a source of heat or power for the **Building** or that are ancillary to a manufacturing process and provided that such device is certified for the purpose by a recognized and appropriate agency
- 1.37 “**Owner**” means the person registered on title as the owner of a **property** or **Structure** or **Building**.
- 1.38 “**Permit**” means a fire permit issued by the Town for the provisions of permitting open air burning in accordance with the terms and conditions contained within this by-law.
- 1.39 “**Person**” means all transients, owners, tenants, and occupiers of lands within the Town and shall include any individual, association, firm, partnership, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to who the context can apply according to law.
- 1.40 “**Property**” means any ground, yard, lot, land or other real property whether or not occupied by a building or structure that is located within the Town.
- 1.41 “**Responsible Person**” means any adult person (18 years of age or older) who, in the opinion of the Fire Chief, or their designate, is capable of exercising the required judgment and is capable of performing the necessary actions to control a fire and prevent its unwanted spread and does not include persons impaired by alcohol or drugs.
- 1.42 “**Shall**” mean imperative or must.
- 1.43 “**Smoke**” means the visible vapor and gases given off by a burning or smoldering substance where clean combustion has not occurred.
- 1.44 “**Structure**” means anything constructed or erected, the use of which requires location on or in the ground.
- 1.45 “**Town**” means The Town of Midland.
- 1.46 “**Yard Wastes**” – Shall mean organic material from a household yard, such as leaves, and grass cuttings and any organic materials characterized by their ability to compost.

## **2. WORD USAGE**

- 2.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural includes the singular.
- 2.2 The headings and subheadings used in this by-Law shall not form a part of the by-law but shall be deemed to be inserted for convenience of reference only.

## **3. GENERAL PROHIBITIONS**

- 3.1 No person shall set or maintain a fire in open air unless a permit has been issued by the Town under this by-law.
- 3.2 No person shall set a fire or permit a fire to burn when the wind speed exceeds twenty-four (24) kilometers per hour.
- 3.3 No person shall set a fire or permit a fire to burn when the Ministry of the Environment has issued a “Smog Alert” or Humidex advisory for South-Central Ontario.
- 3.4 No person shall set a fire or permit a fire to burn when rain or fog is present.
- 3.5 No person shall set a fire or permit a fire to burn other than between the hours of 4:00 p.m. through 12 midnight, unless otherwise expressly permitted by the Officer.
- 3.6 No person shall burn any material other than clean dry wood which is free and clear from any finishes, preservatives or other material that may be affixed to the wood in accordance with the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended.
- 3.7 No person shall set or maintain a fire that is creating a nuisance or has an adverse effect on a neighbouring property(s) or property owners.
- 3.8 No person shall set or maintain a fire in a manner that creates excessive smoke.
- 3.9 No person shall set or maintain a fire that contains more than 0.6 cubic metre (21.2 cubic feet) of material burning at any one time and exceeds 0.6 metres (24 inches) in diameter.
- 3.10 No person shall set or maintain a fire that is within 3 metres (9.8 feet) of any structure, hedge, fence, vehicular roadway, property line or overhead wire or obstruction of any kind or nature whatsoever.
- 3.11 No person shall set or maintain a fire without first ensuring a person able to supervise such fire and who is equipped with adequate tools and/or water to extinguish it promptly in the event of danger of the spread of such fire and is in constant immediate attendance at the specific place where the fire is burning.
- 3.12 No person shall leave the specific place where the fire is burning without first ensuring such fire is completely extinguished.

- 3.13 No person shall set a fire or permit a fire when a fire ban is in effect.
- 3.14 No person shall set or maintain a fire in a chiminea/outdoor fireplace unless it is located on a non-combustible surface extending beyond the unit to a dimension equal to the height of the unit.

#### **4. PERMIT NOT REQUIRED**

- 4.1 A permit shall not be required for the purpose of actively cooking food on a grill or a barbecue, gas-fired outdoor campfire devices for which is supervised at all times, shall not be deemed to be an “open air” fire for the purposes of this by-law. This provision shall be at the discretion of the Officer.
- 4.2 A permit shall not be required for the purpose of an “open air” fire that is located in a lawfully zoned campground. All other provisions of this by-law shall apply.

#### **5. REQUIREMENTS TO OBTAIN A PERMIT**

- 5.1 Only the property owner or agent shall apply for a fire permit. The agent must have written permission from the property owner to apply for a fire permit. The Town reserves the right to withhold said permit in order to contact the owner to confirm said written permission.
- 5.2 The prescribed fee for the issuance of a fire permit shall be set out within the Town’s User Fees By-law.
- 5.3 Permits shall be issued on an annual basis. Annual shall mean from the date of purchase until December 31 of that given year.

#### **6. TERMS AND CONDITIONS OF PERMIT**

- 6.1 No person shall set or maintain a fire in open air in accordance with the general prohibitions outlined in section 3 of this by-law.
- 6.2 Every person who applies for, receives, and signs a fire permit acknowledges an understanding of the provisions contained within this by-law and assumes all responsibility and liability including any damage or injury to persons or property with respect to the setting of a fire or permitting the fire to burn.
- 6.3 The person supervising the fire shall take every reasonable precaution to prevent smoke being generated or becoming a nuisance. In order to avoid excessive smoke, persons shall:
- a) Ensure that all material is dried to greatest extent practicable.
  - b) Material is loosely stacked to eliminate dirt from the pile and to promote an adequate air supply to the burning.
  - c) Build piles that are at least as tall as they are wide.

- d) Not include wood larger than eight (8) inches in diameter or stumps in the pile as these materials are likely to smolder and produce large amounts of smoke.
  - e) As a pile burns down, move unburned and smoldering material from the perimeter of the pile into the center of the fire.
- 6.4 Permits are issued to the person, who is deemed to be the permit holder, for the specified property as noted on the permit. Permits are not transferable or refundable between persons and/or properties.
- 6.5 It shall be the responsibility of the permit holder to, prior to setting an open air fire, to ensure that a fire ban or elevated humidex is not in effect.
- 6.6 A permit may be revoked or denied by the Officer if the permit holder fails to or has previously failed to comply with the requirements of the permit and/or any other provision of this by-law.
- 6.7 The Officer is authorized to order any person to extinguish any fire or to cause such a fire to be extinguished when there is a breach of any of the provisions of this by-law or where, in his sole discretion, there is a danger of such fire spreading or otherwise endangering life or property and the person shall comply with any such order.
- 6.8 Where an owner is in default of doing any matter or thing directed or required to be done under this by-law, the Officer may direct such matter or thing to be done at the owner's expense. The Town shall recover the related expenses due to remedial action taken, by action, or in the same manner as municipal taxes.
- 6.9 For the purpose of this by-law, the owner of a property on which a fire has been set or permitted to burn in the open air shall be deemed to have permitted the fire to burn and is deemed responsible for such.

## **7. EXCEPTIONS AND VARIATIONS**

The following are exempt from the provisions of this by-law.

- 7.1 Barbeques and outdoor gas appliances installed and operated according to the manufacturer's specifications using commercial fuels such as propane and natural gas.
- 7.2 The Midland Fire Department for the purposes of educating and training individuals.
- 7.3 The Chief Fire Official may grant special approval for a variance to the open air burning regulations contained in section 3.
- 7.4 Any person may make application in writing to the Chief Fire Official for special approval of open air burning with religious, cultural or environmental significance, as an exception to the provisions of this by-law. Any such application shall include statement(s) to describe the purpose, reason and intent of the request, location and size of the fire, date and time of the fire, safety measures and supervision arrangements. The application shall also include a site diagram showing the fire location relative to buildings / structures,



trees, shrubs, hedges, fences, overhead obstructions, flammable materials and property lines.

- 7.5 Where the applicant is not the owner of the land on which the fire is to occur, the applicant shall together with his application and at the time of application, provide written permission of the property owner to submit application for open air burning. Such permission shall be evidence by the signature of the registered owner of the land on the application pursuant to this by-law.
- 7.6 The Chief Fire Official may attach such conditions as deemed appropriate to any approval. In considering the application for the variance the Chief Fire Official shall consider the purpose, reason, and intent for the variance, location of the fire, size of the fire, safety measures, supervision arrangements, time of year, time of day, and the anticipated weather conditions. The authority for approval rests solely with the Chief Fire Official.

## 8. EXTINGUISHMENT

Any person supervising a fire shall ensure that:

- 8.1 At all times that the fire is burning, there shall be ready to hand at the site of the fire an adequate means in which the fire may be controlled and extinguished. Such means may include a garden hose charged with water, a minimum 10-A rated dry-chemical fire extinguisher, a minimum 15 litre pail full of water, or additional and alternate means as the circumstances may require, and
- 8.2 At all times the fire is burning, there shall be ready to hand at the site of the fire an adequate means for calling the Town of Midland Fire Department or 911 to assist if such fire should get out of control, and
- 8.3 At the completion of the burn, the fire shall be fully and completely extinguished, and the burn site shall be **Made Safe** before it is left unattended.

## 9. FIRE BAN

Despite the existence of any valid **Burning Permit** the **Fire Chief** may issue a **Ban** on any or all **Open-Air Fires** or may suspend without recourse any or all **Burning Permits** and cause to be extinguished any or all **Open-Air Fires** (whether permitted or **Exempt**) until such conditions as the **Fire Chief** may indicate are met.

## 10. ADMINISTRATION, ENFORCEMENT, AND RIGHTS OF ENTRY

- 10.1 This By-law shall be administered and enforced by the Fire Chief who is hereby authorized to enforce the provisions of this By-law.

- 10.2 The Fire Chief only may formally delegate the enforcement of any portion of this By-law to a Deputy Fire Chief, a Fire Prevention Officer or to a Firefighter.
- 10.3 The Fire Chief or Delegate has the power during the investigation of a nuisance open air fire response, to make the determination if said fire located at the address of the call is in contravention of this by-law.
- 10.4 The Fire Chief may enter upon and within, and inspect any land, property, Building or Structure at any reasonable time to determine if any Section of This by-law is being complied with, or, to determine if any direction, notice or Order issued pursuant to this By-law or the Municipal Act, 2001, or the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, or any court has been complied with, or to perform any remedial work authorized in "Section 11, Orders and Cost Recovery" of this By-law.
- 10.5 Notwithstanding this By-law, the Fire Chief shall not enter or remain in any room or place actually used as a dwelling unless the provisions of Section 437 of the Municipal Act, 2001 are complied with.
- 10.6 The Fire Chief shall have the inspection powers provided in Subsection 436(b) of the Municipal Act, 2001 and Section 19 of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4.
- 10.7 Where an Owner or Occupant is in contravention of any provision of this By-law, the Fire Chief, in addition to any other action, may send a notice in the form of a letter or email to the Owner or Occupant describing the contravention.
- 10.8 Any notice, Order or direction given under this By-law may be given personally to the person to whom it is directed, or may be mailed by ordinary or registered mail, or by hand delivery to the mailing address of the Owner or the Occupant of the property and any such delivery or posting shall be deemed good and sufficient service.
- 10.9 No person shall obstruct or hinder, or attempt to obstruct or hinder, the Fire Chief in the exercise of power or the performance of a duty under this By-law.
- 10.10 No person shall refuse to produce any documents or things required by the Fire Chief under this By-law, and every person shall assist any entry, inspection, examination, or inquiry by the Fire Chief.
- 10.11 No person shall knowingly furnish false or misleading information to the Town of Midland or to the Fire Chief with respect to this By-law.

## 11. **ORDERS AND COST RECOVERY**

- 11.1 If the **Fire Chief** believes that this By-law has been contravened, they may issue an Order directing compliance with this By-law and may require the work specified in the Order be carried out immediately, or within the time frame or other conditions specified in the Order.

- 11.2 The **Fire Chief** may Order at any time that any **Open-Air Fire** be immediately extinguished and the site of the fire **Made Safe**.
- 11.3 An Order may contain requirements by an agency that may provide emergency services or electricity or natural gas or other utility services to the property location, necessary for the safety of its employees.
- 11.4 No **Owner** or **Authorized Agent** of such **Owner**, or **Occupant** of a property shall fail to comply with any Order issued under this By-law.
- 11.5 Should the **Owner** or **Occupant**, or **Authorized Agent**, fail to rectify the non-compliance in accordance with the Order, the **Town** in addition to other remedies shall have the right to correct the situation and, for this purpose, its servants and agents may from time to time enter in and upon the property at any reasonable time without a warrant.
- 11.6 Anything done or removed, under the direction of an Order, by the **Town**, its employees or agent or contractor, may be deposited elsewhere on the property or may be removed from the property and forthwith destroyed, or otherwise disposed of by the **Town**, its employees, agent, or contractor.
- 11.7 The **Town** shall not be liable to compensate such **Owners**, **Occupants**, or any another person having an interest in the property, by reason of anything done by or on behalf of the **Town** in a reasonable exercise of its power under the provisions of this *Section*.
- 11.8 The **Fire Chief** may cause a prosecution to be brought against any person who is in breach of an Order and upon conviction, such person shall forfeit and pay at the discretion of the convicting Provincial Judge or Justice of the Peace acting within their territorial jurisdiction, a penalty in accordance with the provisions of Part VII of the *Fire Protection and Prevention Act, 1997*, as amended.
- 11.9 If the **Owner** fails to pay the cost of any work done by or for the **Town** under an Order issued under the provisions of this By-law, within thirty (30) calendar days of issuance of an invoice by the **Town**, then the outstanding amount shall be added to the tax roll of the subject property and collected in the same manner as property taxes.

## 12. **SEVERABILITY**

- 12.1 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 this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.
- 12.2 Where the provisions of this by-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.

**13. PENALTY PROVISIONS**

- 13.1 Any owner or person who contravenes any provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided in the Provincial Offences Act, R.S.O. 1990, c. P.33, as may be amended from time to time.
- 13.2 Every owner or person who knowingly concurs in the contravention of any provision of this by-law is guilty of an offence.
- 13.3 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the *Municipal Act, 2001*, as amended, or under a by-law passed under the *Municipal Act, 2001*, as amended.
- 13.4 Any Person who has been alleged to have contravened any of the provisions of a by-law passed under the *Municipal Act, 2001*, as amended, shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.

A person is guilty of an offence if the person:

- 13.5 Fails to comply with an order, notice, direction, or other requirement under this By-law, or contravenes any provision of this By-law.
- 13.6 A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence.
- 13.7 Any person who knowingly and falsely reports a violation of this By-law shall upon the second and any subsequent false reports be guilty of an offence.

It shall be an offence to furnish false information in the Application for a Permit.

**14. REPEAL**

- 14.1 That By-law 2015-52 is hereby repealed.

**15. SHORT FORM TITLE**

- 15.1 This By-law shall be referred to as the "Open Air Burning By-law".

**16. EFFECTIVE DATE**

- 16.1 This by-law shall come into force and effect upon approval of the set fines appended hereto, from the Ontario Court of Justice (Provincial Division).

**BY-LAW PASSED AND ENACTED THIS 12<sup>th</sup> DAY OF APRIL 2023.**

**THE CORPORATION OF THE TOWN OF MIDLAND**

**\_\_\_\_\_**  
**BILL GORDON - MAYOR**

**\_\_\_\_\_**  
**SARAH CATHCART - DEPUTY CLERK**

## THE CORPORATION OF THE TOWN OF MIDLAND

### Part 1 Provincial Offences Act

By-law 2023-xx being a by-law regulating the setting of open air fires, including establishing the times during which open air fires may be set and to repeal By-law 2015-52.

<b>Item</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1.	Set or maintain fire without permit.	Section 3.1	\$160.00
2.	Set or permit fire during high winds.	Section 3.2	\$160.00
3.	Set or permit fire during smog or humidex advisory.	Section 3.3	\$160.00
4.	Set or permit fire during rain or fog.	Section 3.4	\$160.00
5.	Set or permit fire outside of permitted hours.	Section 3.5	\$160.00
6.	Burn other than clean dry wood.	Section 3.6	\$300.00
7.	Set or maintain fire that creates a nuisance.	Section 3.7	\$160.00
8.	Set or maintain fire that creates excessive smoke.	Section 3.8	\$160.00
9.	Set or maintain fire larger than 0.6 metres.	Section 3.9	\$160.00
10.	Set or maintain fire within 3 metres of structure.	Section 3.10	\$160.00
11.	Set or maintain fire within 3 metres of hedge.	Section 3.10	\$160.00
12.	Set or maintain fire within 3 metres of fence.	Section 3.10	\$160.00
13.	Set or maintain fire within 3 metres of vehicular roadway.	Section 3.10	\$160.00
14.	Set or maintain fire within 3 metres of property line.	Section 3.10	\$160.00
15.	Set or maintain fire within 3 metres of overhead wire.	Section 3.10	\$160.00
16.	Set or maintain fire within 3 metres of obstruction.	Section 3.10	\$160.00
17.	Set or maintain unsupervised fire.	Section 3.11	\$300.00
18.	Fail to have adequate tools/water.	Section 3.11	\$300.00
19.	Leave fire without extinguishing.	Section 3.12	\$300.00
20.	Set or permit fire during fire ban.	Section 3.13	\$500.00
21.	Set or maintain fire on combustible surface.	Section 3.14	\$160.00
22.	Falsely reporting non-nuisance fire	Section 13.7	\$1,000.00

Note: the penalty provision(s) for the offences indicated above is Section 10 of By-law 2023-xx a certified copy of which has been filed and Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c.P.33.