THE CORPORATION OF THE TOWN OF SOUTH BRUCE PENINSULA
BY-LAW NUMBER 17-2013

Being a By-Law to Regulate Open Air Burning
in the Town of South Bruce Peninsula

WHEREAS Section 7.1(1) of the Fire Protection and Prevention Act, 1997, as amended by Section 475 of the Municipal Act, 2001 provides interalia that a council of a municipality may pass by-law regulating fire prevention, including the prevention of the spreading of fires and 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, as amended by Section 475 of the Municipal Act, 2001 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, as amended by Section 475 of the Municipal Act, 2001 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 this section are being complied with;

AND WHEREAS Section 7.1(5) of the Fire Protection and Prevention Act, 1997, as amended by Section 475 of the Municipal Act, 2001 provides for the exercise of powers by an officer appointed under this section shall be carried out in accordance with Part XIV of Municipal Act, 2001, other than clause 431(a) of that Act;

AND WHEREAS Section 13(1.2) of the Fire Protection and Prevention Act, 1997, as amended by Section 475 of the Municipal Act, 2001 provides that a firefighter or such other person as may be authorized by the Fire Chief may, without a warrant, enter on lands or premises on which a fire is occurring, or that are adjacent to those lands or premises, for the purposes of pulling down or removing buildings, structures or things on or attached to the lands or premises on which a fire is occurring or that are adjacent to those lands or premises if, in the opinion of the Fire Chief, it is necessary to do so to prevent the spread of fire;

AND WHEREAS Section 425(1) of the Municipal Act, 2001 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 391(1) of the Municipal Act, 2001 provides that a municipality has the authority to impose fees or charges on persons, for services or activities provided or done on behalf of it; for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and for the use of its property including property under its control.
AND WHEREAS Section 2.6.3.4 of the Ontario Fire Code 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 or a barbecue;

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

AND WHEREAS it is deemed desirable to regulate open air burning in the Town of South Bruce Peninsula;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF SOUTH BRUCE PENINSULA HEREBY ENACTS AS FOLLOWS:

PART 1 – DEFINITIONS AND ADMINISTRATION

1.1 Definitions

For the purposes of this by-law:

(a) "Applicant" shall mean the person, organization, company or group that makes application to the Fire Chief for permission to hold an open air burning and includes such persons who contact the Fire Chief with notification of an intention to hold an open air burning.

(b) "Barbecue" appliances include a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire burn areas or camp fires.

(c) "Open Air Burning" shall mean the burning of any material, including without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is, thereby, open to the air.

(d) "Open Burning Device" shall mean a commercially manufactured or homemade device for the purpose of containing a recreational fire.

(e) "Town" shall mean The Corporation of the Town of South Bruce Peninsula.

(f) "Fire Chief" shall mean the Fire Chief for the Town of South Bruce Peninsula Fire Department or designate including members of the Town of South Bruce Peninsula Fire Department.

(g) “Flying Lanterns” also known as Sky Lanterns, Chinese Lanterns, Sky Candles, Wish Lanterns, Hawaii Lanterns or Konming Lanterns shall mean small paper-like balloons fuelled by an open flame.
(h) "Recreational Open Air Burning" shall mean a small contained fire used for recreational purposes in accordance with the provisions of Section 2.3 herein.

(i) "Non-Recreational Open Air Burning" shall mean any open air burning that is not a recreational open air burning.

(j) "Permitted Area" shall mean those areas within the Town of South Bruce Peninsula where Non-Recreational Open Air Burning is permitted.

(k) "Fire Ban" shall mean an order by the Fire Chief of the Town of South Bruce Peninsula or by the Province of Ontario for a complete or partial ban against recreational and non-recreational fires.

(l) "Manager of Public Works" shall mean the Manager of Public Works for the Town of South Bruce Peninsula or designate.

(m) "By-Law Enforcement Staff" shall mean the staff appointed by the Town of South Bruce Peninsula to enforce the provisions contained in Town by-laws.

1.2 Administration

The Fire Chief and By-Law Enforcement staff shall administer this by-law.

1.3 Fire Services — Exempt

The Town of South Bruce Peninsula Fire Department shall be exempt from the provisions of this by-law with respect to open air burning set for the purposes of educating and training individuals.

PART 2 — GENERAL PROVISIONS

2.1 Open Air Burning — Regulations

a) Subject to Sections 2.3 and 3.1 herein, no person shall conduct or permit to be conducted, an open air burning within the boundaries of the Town of South Bruce Peninsula unless permission has first been granted by the Fire Chief.

b) No person shall burn and/or release or permit the burning/releasing of products commonly referred to as "Flying Lanterns" as defined herein unless permission has first been granted by the Fire Chief.

2.2 No person shall conduct or permit to be conducted a non-recreational open air burn in the Zones as defined by the Town’s Comprehensive Zoning By-Law;

- R1A – Un-Serviced Detached Residential
- R1B – Service Detached Residential
2.3 Exception – Recreational Open Air Burning

Notwithstanding Section 2.1 herein, the following regulations shall apply to recreational open air burning associated with the use of open burning devices or fire burn areas specifically designed for open air burnings:

(a) Every person conducting a recreational open air burning associated with the use of open burning devices or fire burn areas specifically designed for open air burnings shall confine the same to open burning devices or to a fire burn area with a burn area no larger than two (2) feet (61 cm) by two (2) feet (61 cm) by two (2) feet (61 cm) or 8 cubic feet (0.26 cubic metres) in size. Open burning devices shall be:

(i) designed of a non-combustible material;

(ii) of a size not larger than described in Section 2.3 (a) herein; and

(iii) shall be installed in accordance with the Manufacturer’s recommendation.

(b) Every person shall take steps to ensure that adjacent properties and individuals are protected from any fire hazard and are not adversely affected by the products of combustion.

(c) No person shall burn materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood, but not including painted wood, pressure treated wood or creosote treated wood.

(d) No person shall burn wood having dimensions greater than the size of the open burning device or fire burn area and the wood shall be totally confined within the open burning device or fire burn area at all times.

(e) Every person shall confine an open air burning to a location that provides for a minimum distance of 13 feet (4 m) in all directions from adjacent properties.

(f) Every person shall confine open air burning to an area that is a minimum of 13 feet (4 m) from permanent combustible structures or objects.

(g) Every person shall have immediately available for use an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire.

(h) Every person conducting open air burnings shall attend, control and supervise the same at all times and shall completely extinguish the open air burn site before it is vacated.
(i) No person shall conduct open air burnings when the wind speed exceeds 20 km per hour or during rainy or foggy weather or at times when a smog alert has been declared by the Ministry of the Environment and Energy for Ontario or any successor and relevant Ministry.

(j) Every person conducting an open air burning may be permitted to do so, on Town property in appliances approved by the Town when first authorized, in writing, by the Manager of Public Works and the Fire Chief.

(k) Every person is permitted to conduct a campfire in a campground approved pursuant to the comprehensive zoning by-laws of the Town of South Bruce Peninsula, as may be amended from time to time.

2.4 Fire Ban/Provincial Ban

No person shall set or maintain a fire:

a) When the Province has issued a fire ban or,

b) When the Fire Chief or his designate has issued a complete or partial fire ban.

2.5 Response to Complaints

(a) Should the South Bruce Peninsula Fire Department be dispatched to a complaint regarding public safety due to a fire hazard created by a recreational open air burning, or upon notification of a prohibited open air burning not authorized under this by-law, the Fire Chief can order the landowner or occupant to immediately extinguish the fire and the landowner or occupant shall comply with the order.

(b) Should any landowner or occupant fail to extinguish a recreational open air burning or a prohibited open air burning when ordered to do so by the Fire Chief, the Fire Chief may take action to have the fire extinguished, and the person who owns or occupies the land on which the recreational open air burning or prohibited open air burning is located shall be responsible for any and all costs incurred by the Town of South Bruce Peninsula Fire Department in its efforts to extinguish the fire.

2.6 Cooking

Notwithstanding Section 2.1 herein, the following regulations shall apply to the use of barbecues to cook food:

(a) No person shall use or permit the use of a barbeque on any highway as defined in the Highway Traffic Act, municipal parks, or municipal parking lots unless express permission has been granted by the Manager of Public Works and the Fire Chief.
(b) Every person shall place the barbecue on non-flammable material and in a location other than in a building, inside any garage, tent, vehicle or structure, or on or near dry vegetation that is conducive to the development or spread of fire or explosion.

(c) Every person shall supervise the barbeque at all times.

(d) Every person shall use fuel that is a clean dry natural wood or a commercially produced fuel for the purpose of cooking such as charcoal or briquette, natural gas or propane.

PART 3 – SPECIAL REGULATIONS FOR NON RECREATIONAL OPEN AIR BURNING

3.1 Non Recreational Open Air Burning

Notwithstanding Section 3.2 herein, the following regulations shall apply to Non Recreational Open Air Burning that is not greater in size than 2 metres by 2 metres;

(a) Every person shall take steps to ensure that adjacent properties and individuals are protected from any fire hazard and are not adversely affected by the products of combustion.

(b) Every person shall confine an open air burning to a location that provides for a minimum distance of 33 feet (10 m) in all directions from adjacent properties.

(c) Every person shall confine open air burning to an area that is a minimum of 33 feet (10 m) from permanent combustible structures or objects.

(d) Every person shall have immediately available for use an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire.

(e) Every person conducting open air burnings shall attend, control and supervise the same at all times and shall completely extinguish the open air burn site before it is vacated.

(f) No person shall conduct open air burnings when the wind speed exceeds 20 km per hour or during rainy or foggy weather or at times when a smog alert has been declared by the Ministry of the Environment and Energy for Ontario or any successor and relevant Ministry.

3.2 Permit – Non Recreational Open Air Burning Greater Than 2 Metres X 2 Metres

a) Any person intending to conduct a non-recreational open air burning greater in size than 2 meters X 2 meters shall make application at least one week prior to the proposed date of the non-recreational open air burning on the form supplied by the Fire Chief and shall
comply with Section 3.2 herein and the Fire Chief shall have the authority to issue such permit.

b) The Fire Chief may issue a permit to allow a non-recreational open air burning to reoccur over an extended period of time.

c) No person shall set or maintain a non-recreational open air burn greater than 2m x 2m without a permit.

3.3 Regulations – Non Recreational Open Air Burning Greater Than 2 Metres X 2 Metres

The following regulations shall apply to non-recreational open air burnings in any permitted area that are greater in size than 2 meters X 2 meters:

(a) Any person conducting a permitted non recreational open air burning shall have the permit readily available on site, if requested to produce same by the Fire Chief or By-law Enforcement Personnel.

(b) No person or persons shall light or cause to be kindled any non recreational open air burning in a permitted area before sunrise or after sunset.

(c) No person shall burn materials other than dry clean brush or other clean dry natural vegetation.

(d) Non recreational open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated.

(e) No person shall set/maintain or permit any Non recreational open air burnings during rainy or foggy weather or on smog alert days as declared by the Ministry of Environment for Ontario or any successor and relevant Ministry.

(f) No person shall set/maintain or permit any Non recreational open air burnings when the wind speed exceeds 20 km per hour.

(g) No person shall set/maintain or permit a Non recreational open air burning unless confined to an area which is at least 200 feet (60 m) from any building, highway, road or wooded area and shall be clear of any over-head objects (i.e. wires).

(h) No person shall permit a burn area to exceed that approved on the permit.

(i) No person maintaining a non-recreational open air burn shall fail to ensure that smoke caused by burning does not have a negative impact on the visibility of motorists using highways in the vicinity of the non recreational open air burning or upon the owner(s) or occupant(s) of the surrounding properties.
3.4 Permission – Open Air Burning – Telephone Notification

– Non Recreational Open Air Burning

Upon receipt of a permit, as described in 3.1 of this by-law, no person shall conduct or permit to be conducted a non recreational open air burning in a permitted area without first notifying the South Bruce Peninsula Fire Department or their assigns in person or by telephone and complying with the provisions of Section 3.1 and Section 3.2 of this by-law.

3.5 Notification at Conclusion of Burning – Permitted Area

Any person, who has given notification pursuant to section 3.3 above, shall notify the South Bruce Peninsula Fire Department or their assigns in person or by telephone at the conclusion of the non recreational open air burning.

3.6 Notification to Extinguish

Any person conducting a non recreational open air burning in any permitted area shall immediately extinguish the fire upon notification by the Fire Chief or By-law Enforcement staff, that in their opinion:

(a) the said fire presents a fire hazard, or

(b) the fire is having a negative impact on persons using a highway adjacent to the burn site, or

(c) the regulations of this by-law are being contravened, or

(d) any combination of these matters exists or applies.

3.7 Failure to Extinguish - Liable for Costs

Should any landowner or occupant fail to extinguish a prohibited open air burning in a permitted area when ordered to do so by the Fire Chief or By Law Enforcement Personnel, action may be taken to have the fire extinguished. The person who owns or occupies the land on which the open air burning is located shall be responsible for any and all costs incurred by the Town of South Bruce Peninsula Fire Department in its efforts to extinguish the fire.

PART 4 – ENFORCEMENT

4.1 Regulations – Offence - Penalty

Every person who violates a provision of this by-law is guilty of an offence and on conviction is liable to the penalty provided in Section 61 of the Provincial Offences Act R.S.O. 1990 Chapter 33 as amended from time to time.

4.2 Prohibited Open Air Burning – Repeated
Should any land owner or occupant repeat the offence of conducting a prohibited open air burning, the person who owns or occupies the land on which the open air burning is located, shall be responsible for any and all costs incurred by the Town of South Bruce Peninsula Fire Department in responding to the prohibited open air burning.

4.3 Causing False Response

Should it be determined that the landowner or occupant of adjacent property(s) falsely notified South Bruce Peninsula Fire Department or their assigns of an open air burning contrary to Section 2.1, 3.1 and 3.2; the person who owns or occupies the property in which the false call originated, shall on a repeated offence be responsible for any and all cost incurred by the South Bruce Peninsula Fire Department response.

4.4 Continuation - Repetition - Prohibition by Order

The court in which the conviction has been entered and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

4.5 Default - Collection of Costs

The Town shall have the right to collect any unpaid costs as authorized by this by-law by adding such charges to the tax roll where they may be collected in like manner as municipal taxes, all of which is in accordance with Section 326 of the Municipal Act, R.S.O. 1990, Chapter M.45, as amended.

PART 5 – ENACTMENT

5.1 Severability

If any section or sections of this by-law or parts thereof shall be found by any court to be illegal or beyond the power of Municipal Council of the Town of South Bruce Peninsula to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found and this by-law shall be enacted as such.

5.2 Short Title

The short title of this by-law shall be “The Open Air Burning By-Law”.
5.4 Effective Date

THAT any by-laws inconsistent with this by-law are hereby repealed and replaced.

THAT this by-law shall come into force and effect upon final passing thereof.

Read a FIRST and SECOND time this 19th day of February, 2013

[Signatures]

MAYOR

CLERK

Read a THIRD time and FINALLY PASSED this 19th day of February, 2013

[Signatures]

MAYOR

CLERK
# Schedule A

## By-Law Number 17-2013

**Regulating Open Air Burning**

### Part 1 Provincial Offences Act

#### Set Fine Schedule

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1: Short Form Wording</th>
<th>Column 2: Provision Creating or Defining Offence</th>
<th>Column 3: Set Fine</th>
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<tbody>
<tr>
<td>1</td>
<td>Conduct open air burn without permission</td>
<td>Section 2.1 (a)</td>
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<td>2</td>
<td>Burn or release of Flying Lanterns</td>
<td>Section 2.1 (b)</td>
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<tr>
<td>3</td>
<td>Permit open air burn without permission</td>
<td>Section 2.1(a)</td>
<td>$155.00</td>
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<tr>
<td>4</td>
<td>Conduct non-recreational burn in prohibited area</td>
<td>Section 2.2</td>
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<td>5</td>
<td>Conduct open air burn in oversized device</td>
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<td>6</td>
<td>Burning device made of combustible material</td>
<td>Section 2.3(a) (i)</td>
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<td>7</td>
<td>Burning device incorrectly installed</td>
<td>Section 2.3(a) (iii)</td>
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<td>8</td>
<td>Fail to protect adjacent properties from fire hazard</td>
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<td>Fail to protect adjacent individuals from fire hazard</td>
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<td>Burn prohibited materials</td>
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<td>11</td>
<td>Fail to confine materials to fire burn area</td>
<td>Section 2.3(d)</td>
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<td>Fail to confine open air burn to minimum distance from adjacent properties</td>
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<td>13</td>
<td>Fail to confine open air burn from structures or objects</td>
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<tr>
<td>14</td>
<td>Fail to provide extinguishing agent</td>
<td>Section 2.3(g)</td>
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<td>15</td>
<td>Fail to supervise open air burning</td>
<td>Section 2.3(h)</td>
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<td>16</td>
<td>Conduct open air burning on prohibited weather day</td>
<td>Section 2.3(i)</td>
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<td>17</td>
<td>Locate barbeque in prohibited area</td>
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<td>18</td>
<td>Fail to supervise barbeque</td>
<td>Section 2.6 (c)</td>
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<td>Conduct non recreational open air burn between sunset and sunrise</td>
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<td>Non recreational open air burning of prohibited materials</td>
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<td>22</td>
<td>Fail to supervise non recreational open air burn</td>
<td>Section 3.3 (d)</td>
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<td>23</td>
<td>Permit non recreational open air burn on prohibited weather day</td>
<td>Section 3.3 (e)</td>
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<td>24</td>
<td>Conduct a non recreational open air burn when wind speeds exceed 20km per hour</td>
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<td>25</td>
<td>Fail to confine non recreational open air burn to designated area</td>
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<tr>
<td>26</td>
<td>Non recreational open air burn exceed permitted size</td>
<td>Section 3.3 (h)</td>
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<td>27</td>
<td>Non recreational open air burn impacting on surrounding area</td>
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<td>28</td>
<td>Set fire during a Provincial Ban</td>
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<td>29</td>
<td>Set fire during a fire ban</td>
<td>Section 2.4 (b)</td>
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**NOTE:** THE PENALTY PROVISION FOR THE OFFENCE INDICATED ABOVE IS/ARE SECTION 4.1 OF BY-LAW NUMBER 17-2013. A CERTIFIED COPY OF WHICH HAS BEEN FILED.
FIRE PERMIT APPLICATION
TOWN OF SOUTH BRUCE PENINSULA
519-534-1400 Toll Free 1-877-534-1400
Office Hours: Monday-Friday 8:30am-4:30pm

Name of Applicant:

Mailing Address: __________________________ Telephone Number:

To Start a Fire Upon the Following Lands:

<table>
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<tr>
<th>Lot</th>
<th>Concession</th>
<th>Plan</th>
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<thead>
<tr>
<th>Road Name</th>
<th>Civic Address</th>
<th>Property Owners Name</th>
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<thead>
<tr>
<th>Size of Pile</th>
<th>Date of Burn</th>
<th>Material to be Burned</th>
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Please draw a diagram of the burn site including as much detail as possible.

Fire Extinguishing Equipment on Site:

Applicant Signature __________________________ Date __________________________
FIRE PERMIT

TOWN OF SOUTH BRUCE PENINSULA
519-534-1400 Toll Free 1-877-534-1400
Office Hours: Monday-Friday 8:30am-4:30pm

Name of Applicant:

Mailing Address: Telephone Number:

To Start a Fire Upon the Following Lands:

Lot: Concession: Plan:

Road Name: Civic Address: Property Owners Name:

For the purpose of: brush burning land clearing

From and including the day of 20 up to and including the day of 20 subject to the following terms and conditions:

1. The applicant must keep the permit on site at all times.
2. All land clearing debris shall be in piles or wind rows separated by a distance of at least 25 feet.
3. The applicant shall have at the location of the fire one person and firefighting equipment in serviceable condition including a shovel, hose or other water source and bucket.
4. NEVER LEAVE FIRE UNDATTENDED AND NEVER BURN WHEN WINDY.
5. Fire is to be extinguished daily prior to leaving the burn site.
6. Smoke from the fire is not to effect neighbours adversely and is not to cross any roadway.
7. This permit becomes null and void when a total or partial fire ban is placed by any ministry or by the Town of South Bruce Peninsula or other authority having jurisdiction.
8. The applicant must burn clean wood only. There shall be no burning of plastic, asphalt shingles, rubber or other hazardous materials.

Other Conditions:

Approved Size of Burn Pile:

I have read and understand the above conditions for approval of open air burning. I agree to pay the associated rate should the Town of South Bruce Peninsula Fire Department be dispatched to the burn site to extinguish an out of control hazardous fire or a fire not conforming to these conditions. The rates charged shall be in accordance with the Fee’s By-law for the Town as amended from time to time.

Place of Issue:
Town of South Bruce Peninsula, 315 George St., PO Box 310, Wiarton, ON N0H 2T0

Date of Issue:

Signature of Issuing Officer:

Signature of Applicant:

Dial 911 to Report Wildfires and Emergencies