THE CORPORATION OF THE MUNICIPALITY OF SOUTH DUNDAS

BY-LAW NO. 2026-78

A By-Law to Prescribe the Precautions and Conditions Under Which Fires May be Set in Open Air.

WHEREAS the *Municipal Act*, *2001*, as amended, provides that the powers of the Municipality shall be exercised by By-law;

AND WHEREAS the *Municipal Act*, *2001*, as amended, authorizes a lower-tier Municipality to pass by-laws respecting health, safety and well-being of persons;

AND WHEREAS the *Fire Protection and Prevention Act*, 1997, as amended, provides: that a Council of a Municipality may pass By-laws regulating fire prevention, including the prevention of spreading of fires; regulating the setting of open air fires, including establishing the times during which open air fires may be set; that may deal with different areas of the Municipality differently; and, 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 the *Municipal Act*, *2001*, as amended, authorizes Council to recover the expense incurred in doing any such matter or thing as required by By-law, in default of its being done by the person directed or required to do it, by action, or in like manner as Municipal taxes;

AND WHEREAS the *Municipal Act, 2001*, as amended, authorizes appointed officers to ascertain whether the By-law is obeyed, and to enforce or carry into effect the By-law;

AND WHEREAS the Council of the Municipality of South Dundas deems it expedient to pass a by-law to regulate conditions where fire may be set in the open air.

NOW THEREFORE the Council of the Corporation of the Municipality of South Dundas enacts as follows:

1. DEFINITIONS

In this By-law;

"adverse effect" means an effect which does, or is likely to, impair the safety of any person and/or which does, or is likely to cause damage to property.

"**barbecue**" means a portable or fixed device designed and intended solely for the cooking of food in the open air supplied by propane, natural gas, or electricity with a fuel shut off, but does not include recreational fire or outdoor fireplaces.

"**building**" means any structure used or intended for supporting or sheltering any use or occupancy.

"**By-law Officer**" means a person appointed by the Municipality of South Dundas as a Municipal Law Enforcement Officer to enforce the provisions of the By-law.

"brush fire" means an open air fire where the material to be burned does not exceed 4 feet in height, width and length and where the open air fire is set and maintained solely for the purposes of burning wood, tree limbs, leaves and branches.

"**burn drum fire**" means an open air fire set and maintained in an open top steel barrel where the open air fire is set and maintained for the purposes of burning wood, tree limbs, branches, leaves and non-compostable material limited to paper and sisal twine.

"**campground**" means an area of land owned and operated by a person and or owner that contains campsites for the purpose of overnight accommodations for tents, trailers and motorhomes in exchange for monetary payment.

"**dangerous condition**" means any condition which causes large volumes of smoke, ash, embers, an uncontrolled spread of a fire, increases the risk of the spread of a fire or is adverse to public safety.

"**farming business**" means a farming business as defined in the *Farming and Food Production Protection Act Registration and Farm Organizations Funding Act*, 1993, as amended.

"fire ban" means a period of time during which the Fire Chief declares a total ban on all open air fires.

"**Fire Chief"** means the Director of Fire & Emergency Services of the Municipality.

"**FPPA**" means the *Fire Protection and Prevention Act*, 1997, as amended, and the regulations enacted thereunder as amended from time to time, or any Act or Regulation enacted in substitution therefor.

"**household waste**" means combustible material such as plastics, polyethylene terephthalate, paints, oils, solvents, rubber, insulation, batteries, acids, polystyrenes (Styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fabrics, diapers and hazardous waste as defined in the *Environmental Protection Act* and all other similar and like materials but shall not include untreated wood and wood fiber products such as non-laminated paper and cardboard and boxboard, brush, tree branches/limbs and leaves.

"**highway**" means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof; and, except as otherwise provided, includes a portion of a highway.

"**maintain**" means to allow an open air fire to continue to burn and "maintained" and "maintaining" have a corresponding meaning.

"**material**" means likely to have an adverse impact which is important or significant to a reasonable person.

"**material** to be burned" means the total volume of the materials contained in the fire.

"**Municipality/Corporation**" means the Corporation of the Municipality of South Dundas or the geographic area of the Municipality of South Dundas as the context requires.

"**normal farming practice**" means a practice that:

a) is conducted in a manner consistent with the proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or,
b) makes use of innovative technology in a matter consistent with proper advanced farm management practices.

"**nuisance**" means smoke, smell and/or airborne sparks or embers, alone or in combination, that is likely to, or does, disturb others, that produces material annoyance, inconvenience, or discomfort to others, and/or that is likely to, or does, reduce visibility on highways in the vicinity of the open air burning.

"**open air fire**" means the burning of material such as untreated wood and wood fiber products where the flame is not wholly contained and includes recreational fire, brush fires, burn drums and outdoor fireplaces, but does not include barbecues.

"**outdoor fireplace**" means an open air fire where the burning of clean dry seasoned firewood solely for the purposes of cooking food, providing warmth and recreational enjoyment. The outdoor fireplace can be manufactured, non-combustible, enclosed container designed to hold a small fire for decorative purposes and includes, but is not limited to a chiminea.

"**owner**" shall mean any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property.

"**recreational fire**" means an open air fire where the burning of clean dry wood solely for the purposes of cooking food, providing warmth and recreational enjoyment. Burning must be contained with-in a non-combustible container or fire pit.

"**reduce visibility**" means any interference of any kind and for any length of time, with the ability of operators of motor vehicles to see people, objects, or other

vehicles on a highway.

"**person**" means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law.

"**prohibited** materials" includes household waste, rubber, or rubber products, plastic or plastic products, and waste petroleum products and any material or materials which are prohibited by the *Environmental Protection Act*, as amended.

"**property**" means a parcel of land located within the Municipality and described on the last revised assessment roll with a separate roll number.

"**set**" means to light an open air fire and "setting" has a corresponding meaning.

2. INTERPRETATION

2.1 In this By-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.

2.2 This By-law includes the Schedules attached hereto and the Schedules are hereby declared to form part of this By-law.

2.3 It is declared that if any Section, Subsection or part or parts thereof, be declared by any Court of Law to be bad, illegal, or ultra vires, such Section, Subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

3. BURN PRECAUTIONS

3.1 Any persons conducting open air burning inside the boundaries of the Municipality of South Dundas shall have an active burn permit prescribed for the type of burning they are conducting.

3.2 All permits issued are valid on the date of issue and for the balance of the calendar year in which the permit is issued.

3.3 Any person conducting Open air burning is responsible for following the local fire danger rating and abiding by any burn ban issued by the Chief Fire official.

3.4 No person shall set, maintain or allow to continue burning, an open-air fire when the wind is in such a direction or intensity to cause any or all of the following:

a) the possible spread of the fire beyond the approved burn site;
b) reduced visibility on any highway;
c) excessive smoke; and/or,
d) a nuisance.

3.5 Evey person(s) conducting Open air burning shall have the following:

a) A means to control and or extinguish the fire should it become

necessary with tools such as rakes, shovels, or water immediately available for use at the site of the open-air fire.

b) A person to supervise the fire of 18 years of age or older.

c) A copy of the permit issued for the property available should a by-law officer or South Dundas Fire Services official request it.

d) A means to contact 911 should assistance be required to extinguish the fire.

4. APPLICATION FOR A FIRE PERMIT

4.1 Any person eighteen (18) years of age or older may apply for an open-air fire permit prior to the proposed date of the first open air fire. The Permit Holder is responsible to ensure that the conditions outlined in this By-law are adhered to at all times. South Dundas and its employees or agents thereof, in issuing this application, do not assume any responsibility or liability for any hazardous condition(s) created by the applicant which results in damage to the person or property of any third person. South Dundas Fire & Emergency Services and employees or agents thereof shall have the final authority for issuing or denying this permit. Notwithstanding any matters included in a permit, any fire must comply with all applicable municipal and provincial laws and regulations.

4.2 Any application for a permit shall include:

a) the name, address and phone number of the applicant;

b) the property owner's written consent to the open-air fire, if the applicant is not the owner of the property. Written consent shall be uploaded with, and form part of, the permit application at the time the application is submitted, and shall include the property owner's name, contact information, signature and date;

c) An applicant for an Agricultural Burn Permit may include multiple properties forming part of the same farming operation within South Dundas. In such cases, the applicant shall upload, with the application, a description of each property included in the permit. The property shall be identified by one or more of the following: its civic number, its assessment roll number, or, where no civic number exists, the nearest civic number or intersecting road together with the approximate location and distance from that reference point. A property not identified in the application will not covered by the permit.

4.3 A fire permit will not be issued if:

a) the application is incomplete;

b) there are reasonable grounds to believe that the fire may cause adverse effects; or;

c) there are reasonable grounds to believe that the fire will result in a breach of this By-law, or any other Provincial or Federal Law.

4.4 A Permit Holder of an Agricultural Burn permit is also authorized to conduct Rural

and Recreational fires, and a Permit Holder of a Rural permit is also authorized to conduct Recreational fires without obtaining a separate permit. When conducting a fire of a lower permit class, the Permit Holder shall comply with all conditions of this By-law applicable to that class of fire. A Recreational permit does not authorize Rural or Agricultural fires, and a Rural permit does not authorize the permit holder to have Agricultural fires.

5. RECREATIONAL AND OUTDOOR FIREPLACES PERMIT

5.1 A permit is required for a recreational or outdoor fireplace, or any such fire shall be set and maintained in accordance with the following:

a) any fire shall be completely surrounded on all sides and underneath by non-combustible material and shall not exceed (2 feet) wide by (2 feet) long by (2 feet) high.
b) only use clean dry wood and does not include Household Waste as defined.
c) Recreational fires or outdoor fireplace shall not be located less than (12 feet) from any building, hedge, fence, overhead wiring or other combustible material or (16 feet) of a highway or sidewalk.
d) a copy of the printed permit is available and on site when the recreational or outdoor fireplace has been set.
e) has equipment capable of controlling the fire such as rakes, shovels, or water immediately available for use at the site of the open-air fire.
f) shall not be set when a Municipal fire ban is in place.

5.2 A campground owner is responsible for:

a) any and all violations of this By-law which occur on property owned by the campground owner and is liable for recovery of any fees for response to or extinguishment of any open-air burn or any fires caused by an open air burn.
b) All recreational fires within the campground must meet all requirements contained in Section 8 Recreational Fires and Outdoor Fireplaces".

6. RURAL FIRE PERMIT

6.1 A permit is required for an open-air fire (Rural Fire) in accordance with the following:

a) at a distance of not less than (50 feet) from any building, hedge, fence, overhead wiring, highway, property line, or other combustible material;
b) the size of fire shall not exceed (4 feet) high (4 feet) wide and (4 feet) long.
c) have a means to control and or extinguish the fire should it become necessary with tools such as rakes, shovels, or water immediately available for use at the site of the open-air fire.
d) have a person to supervise the fire until completely extinguished that

is of 18 years age or older.

e) A copy of the permit issued for the property available should a by-law officer or South Dundas Fire Services official request it.

f) A means to contact 911 should assistance be required to extinguish the fire.

7. AGRICULTURAL AND LAND CLEARING PERMIT

7.1 Notwithstanding anything else contained herein, in any area zoned "Agricultural" the Fire Chief may grant a permit to set a fire if it is considered to be a normal farming practice. The Fire Chief may issue an application for burning in the open air of cut and piled brush, grass and other organic agricultural materials resulting from the clearing of land and for the destruction of agricultural waste materials originating on that property, provided that:

7.2 every person who starts a fire under the provisions of this subsection shall supervise such fire until it is completely extinguished and shall provide sufficient personnel, appliances, and equipment to prevent the fire from becoming dangerous to life or property;

7.3 such burning shall not be carried out within (250 feet) from any buildings, structures, standing timber or any other flammable or combustible material;

7.4 burning shall not be carried out within (100 feet) of the owner's property line;

7.5 only piles of burning material not exceeding (16 feet) in diameter by (16 feet) in height is acceptable.

7.6 the minimum distance between burn piles shall be not less than (30 feet);

7.7 windrows are not permitted for burning purposes;

7.8 no substance which produces heavy black smoke when burned, such as rubber tires or petroleum products, shall be burned in connection with such burning;

7.9 no such burning shall be carried out where, due to climatic conditions or other hazards, including organic soil, it would be unsafe to do so; and;

7.10 a fire shall not be started within (650 feet) adjacent of any residence not owned by the applicant unless advance written permission is obtained from the owner of such residence.

8. DELEGATION OF AUTHORITY - UPDATING MAP(S) (SCHEDULES)

8.1 Amendments may be suggested by the Fire Chief to Council to the Schedules to this By-law to amend the boundaries of areas in which open air fires may be set or maintained provided that the amendment is a result of a change in one (1) or more of the following factors:

a) population density;
b) building density; and/or,
c) risk management issues, including but not limited to incidence of false alarms and proximity to forested areas.

9. INDEMNIFICATION

9.1 The owner shall indemnify and save harmless the Municipality from any and all claims, demands, causes of action, losses, costs or damages that the Municipality may suffer, incur or be liable for resulting from the open-air fires whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors and agents.

10. REVOCATION

10.1 Permits issued to a permit holder under this By-law may be revoked immediately by the Fire Chief if, in the opinion of the Fire Chief, an adverse effect exists in or near the site of the open-air fire. Revocation shall be effective upon the Fire Chief providing verbal notice to the permit holder or his or her agent.

10.2 Permits issued under this By-law may be revoked by the Fire Chief if the permit holder fails to comply with the requirements of the permit or permits and any other provisions of this By-law. Revocation shall be effective upon the Fire Chief providing verbal notice to the permit holder or his or her agent.

11. EXEMPTIONS

11.1 Any person serving as part of the South Dundas Fire & Emergency Services, or as their agent or employee shall be exempt from the provisions of this By-law with respect to open air fires provided any fire is set for the purposes of training, educating individuals in fire safety, or for research purposes.

11.2 Professional fire prevention and suppression trainers shall be exempt from the provisions of this By-law with respect to open air fires set for the purposes of fire safety training.

12. OFFENCES AND PENALTIES

12.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence.

12.2 Every person who is convicted of an offence under this By-law is liable to a fine as provided for in the Provincial Offences Act.

12.3 Where a person has been convicted of an offence under this By-law:

a) the Ontario Court of Justice, or
b) any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

12.4 Every person who sets a fire in contravention of this By-law or who fails to extinguish a fire once ordered to do so by the Fire Chief shall, in addition to any penalty provided for herein, be liable to the Municipality for all expenses incurred for the purpose of investigating, controlling and extinguishing any fire set or left to burn as per Schedule "D". Any costs chargeable to any person pursuant to this section shall be invoiced to the person and paid to the Municipality within sixty (60) days of the date of such invoice, failing which the costs may be deemed to be municipal taxes and added by the Treasurer of the Municipality to the Collector's Roll and collected in the same manner and with the same priority as municipal taxes.

13. REPEAL

That By-law No. 2024-37 be repealed in its entirety.

14. SHORT TITLE

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

15. EFFECTIVE DATE

This By-law shall come into force on the date of passing.

READ and passed in open Council, signed, and sealed this 2nd day of November 2026.

MAYOR

CLERK

Schedule "A"
To By-law 2026-78

Fees

*As prescribed in By-law 2024-33

Recreational Burn – No Charge

Open Air Burn - $20.00

Agricultural Burn - $25.00

Offences

	1st Offence	2nd Offence	3rd Offence
Fail to obtain permit	$150.00	$250.00	Prohibited to burn
Unattended Fire	$150.00	$250.00	Prohibited to burn
Fail to comply with permit regulations	$150.00	$250.00	Prohibited to burn
Burning during Burn Ban	$250.00	$500.00	Prohibited to burn