

Township of Lucan Biddulph

BY-LAW NO. 23-2017

BEING A BY-LAW TO REGULATE THE ESTABLISHMENT OF OPEN AIR BURNING

WHEREAS the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, Section 7(1)1(a)(b), 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 regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 2.6.3.4 of the Ontario Fire Code provides for the prohibition of open air burning unless approved or unless such open air burning consists of the use of a barbeque to cook food, provided such devices contain a small contained fire which is supervised at all times;

AND WHEREAS Section 5 (3) of the Municipal Act allows Councils of Municipalities to pass by-laws;

AND WHEREAS the Council of the Township of Lucan Biddulph deems it appropriate to enact a by-law to regulate open air burning;

NOW THEREFORE the Council of the Township of Lucan Biddulph hereby enacts as follows:

DEFINITIONS

"Acceptable Burn Material" means commercially produced charcoal or briquettes, small amounts of white or brown paper or cardboard used to start a fire, dry seasoned wood that has been generated on the landowners own property, dry wood by-products that have not been chemically treated, painted or stained, purchased fire logs or purchased firewood sold for the purpose of recreational campfires and not exceeding the maximum permitted Recreational Fire dimensions defined in this By-Law.

"Cooking Fire" means a small, confined fire, sized appropriately for the food being cooked, supervised at all times and used to cook food on a grill or barbeque.

"Designate" means the Deputy Fire Chief, Chief Administrative Officer, Clerk or a By-law Enforcement Officer of the Municipality.

"Fire Chief": means the person appointed by either the Lucan Biddulph Fire Area or the Biddulph Blanshard Fire Area to act as Fire Chief, or his/her designate.

"High Risk Period" means any period of time, when due to extreme dry, high wind or other conditions, there is a higher than normal risk of unwanted spread of fire, as determined by the Ontario Fire Marshal or the Lucan Biddulph Fire Chief, and identified as a High Risk Period.

"Officer" means:

- i) any police officer,
- ii) a By-law Enforcement Officer, Building Inspector, Chief Building Official or Fire Chief as appointed by the Council of the Municipality;

"Open Air Burning" means a fire set in the Open Air.

"Open Fire" means any open fire other than that defined as a "Cooking Fire" or "Recreational Fire" under this By-Law.

"Poor Air Quality Day" means any period of time when a Poor Air Quality Advisory has been issued by Environment Canada or other recognized government health or meteorological agency.

"Prohibited Burn Materials" means any material other than as described under "Acceptable Burn Materials". Specifically prohibited under this By-Law and not to be burned under any circumstances include household waste, human or animal excrement, leaves, grass, treated lumber, insulation, asphalt shingles or other construction materials, commercial by-products such as those generated from wood working, deck-building or landscaping businesses, tires, rubber, plastic, Styrofoam, petroleum or other potentially toxic waste materials.

"Recreational Fire" means a small outdoor fire such as a campfire set within a confined area or device such as an outdoor fireplace or fire pit, situated in a "Safe Location" and measuring no more than 0.70m (27") in any dimension and supervised at all times.

"Restricted Area" means those lands within the Township of Lucan Biddulph delineated and identified in the attached Schedule "A".

"Safe Location" means outdoors and not on a porch or balcony area that is roofed or otherwise covered, or near dry vegetation, or in any other place conducive to unwanted development or spread of fire or explosion, or supported by combustible material. The Safe Location shall be a minimum of 5 metres from any structure and a minimum of 3 metres from adjacent property lines.

"Unrestricted Area" means those lands within the Township of Lucan Biddulph other than those delineated and identified in the attached Schedule "A".

GENERAL PROVISIONS

1. No person shall set or maintain a fire in contravention of the Ontario Fire Code, the Environmental Protection Act R.S.O. 1990, Chapter E. 19, or any other statutory requirements of the Province of Ontario or the Dominion of Canada.
2. No person shall set a Recreational Fire or an Open Fire during a period identified as a Poor Air Quality Day or a High Risk Period.
3. No person shall set a Recreational Fire or an Open Fire so as to have smoke or debris interfere with vehicular traffic or otherwise pose a safety hazard on a public roadway.
4. No person shall set a Recreational Fire or an Open Fire if the wind conditions or the quality of the burn restricts neighbours from enjoyment of the normal use of their property or causes discomfort to persons in the immediate area.
5. Cooking Fires and Recreational Fires shall be permitted within Restricted Areas and Unrestricted Areas and every person who sets a cooking or recreational fire shall comply with the following regulations:
 - a) The fire must be set in a Safe Location, on the landowners own property and contained within an appropriate device;
 - b) The fire must be fueled only with Acceptable Burn Materials;
 - c) The fire must be supervised at all times;
 - d) Effective means of extinguishment must be readily available, and
 - e) The fire must be fully extinguished before being left unsupervised.
6. No person shall set an Open Fire in a Restricted Area as identified in Schedule "A" of this By-law without first obtaining a Restricted Area Burning Permit issued by the Fire Chief in accordance with Schedule C attached hereto. When issuing a Restricted Area Burning Permit, the Fire Chief may include terms and conditions of

approval of the permit including but not limited to requiring the attendance of the fire department at the burn, at the expense of the property owner.

7. No person shall set fires for training purposes or fire extinguisher safety demonstrations, without the prior approval of the Fire Chief.
8. No person shall burn Prohibited Burn Materials.
9. Open Fires set to eliminate Acceptable Burn Materials are permitted within Unrestricted Areas and every person who sets an Open Fire shall comply with the following regulations:
 - a) Contact Fire Dispatch immediately prior to starting an Open Fire as well as contacting Fire Dispatch upon extinguishment of the fire. Notification to Fire Dispatch is not required for Cooking Fires or Recreational Fires as defined in this By-Law;
 - b) Open fires must be confined to daylight hours;
 - c) Open fires must be set on the landowners own property;
 - d) Open fires must be fueled only with Acceptable Burn Materials;
 - e) Open fires must be supervised at all times;
 - f) Effective means of extinguishment must be readily available;
 - g) Open fires must be fully extinguished before being left unsupervised,
 - h) Acceptable burn material must be generated on the landowners property; and
 - i) A Burning Permit must be obtained from the Fire Chief or his/her designate in accordance with Schedule C attached hereto.
10. The restrictions contained within this by-law are also applicable to the use of enclosed heating devices and incinerating devices.

LIABILITY & ENFORCEMENT

The following Liability and Enforcement provisions shall apply to all Open Air Burning within the Township of Lucan Biddulph.

11. Where Open Air Burning is permitted under this By-law, any person who starts a fire shall:
 - a) Take all reasonable steps to keep the fire under control including continuous supervision and ready access to effective means of extinguishment;
 - b) Extinguish the fire before leaving the site of the fire;
 - c) Be responsible for any damage to property or injury to persons that may result from the said fire;
 - d) Be liable for costs incurred by the Municipality, including personnel, equipment and apparatus necessary to investigate, respond or extinguish the fire;
 - (i) if said person who sets a fire is a tenant of the property then the municipality will attempt to invoice the tenant if the tenant information is available;
 - (ii) If payment is not received from the tenant, then the property owner is ultimately responsible for the charges and will be invoiced. Any unpaid amounts will be added to the tax roll and will be collected in the same manner as property taxes.
- 12.1 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act and as set out in Schedule "B", Set Fines..
- 12.2 Any person who contravenes any provision of this by-law may be liable for costs established under By-Law to Establish Various Fees and Charges for Services provided by the Township of Lucan Biddulph.
- 12.3 The provisions of this By-law shall be enforced by an Officer.

13. The Fire Chief or his/her designate may, at all times and upon producing proper identification, enter and inspect any property or premises in order to ascertain whether the provisions of this By-law are complied with, including the taking of pictures, and to enforce or carry into effect the by-law.

PROVINCIAL LEGISLATION

14. Nothing in this By-Law shall supersede or waive the requirements of any Provincial Legislation and/or Regulation.

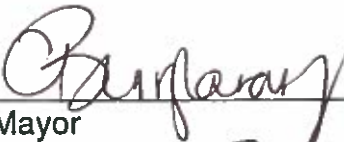
BY-LAWS REPEALED

15. By-Law Number 14-2014 is hereby repealed.

FORCE AND EFFECT

16. This By-Law shall come into full force and effect upon third and final reading.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED on this 1st day of May, 2017.



Mayor



Clerk

SCHEDULE "A"

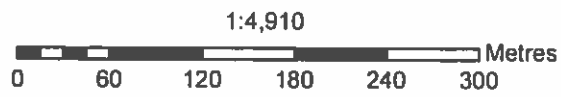


Township of
Lucan Biddulph

Township of LUCAN BIDDULPH



THIS IS SCHEDULE "A" TO BY-LAW No. 23-2017
PASSED THIS 1st DAY OF May, 2017.

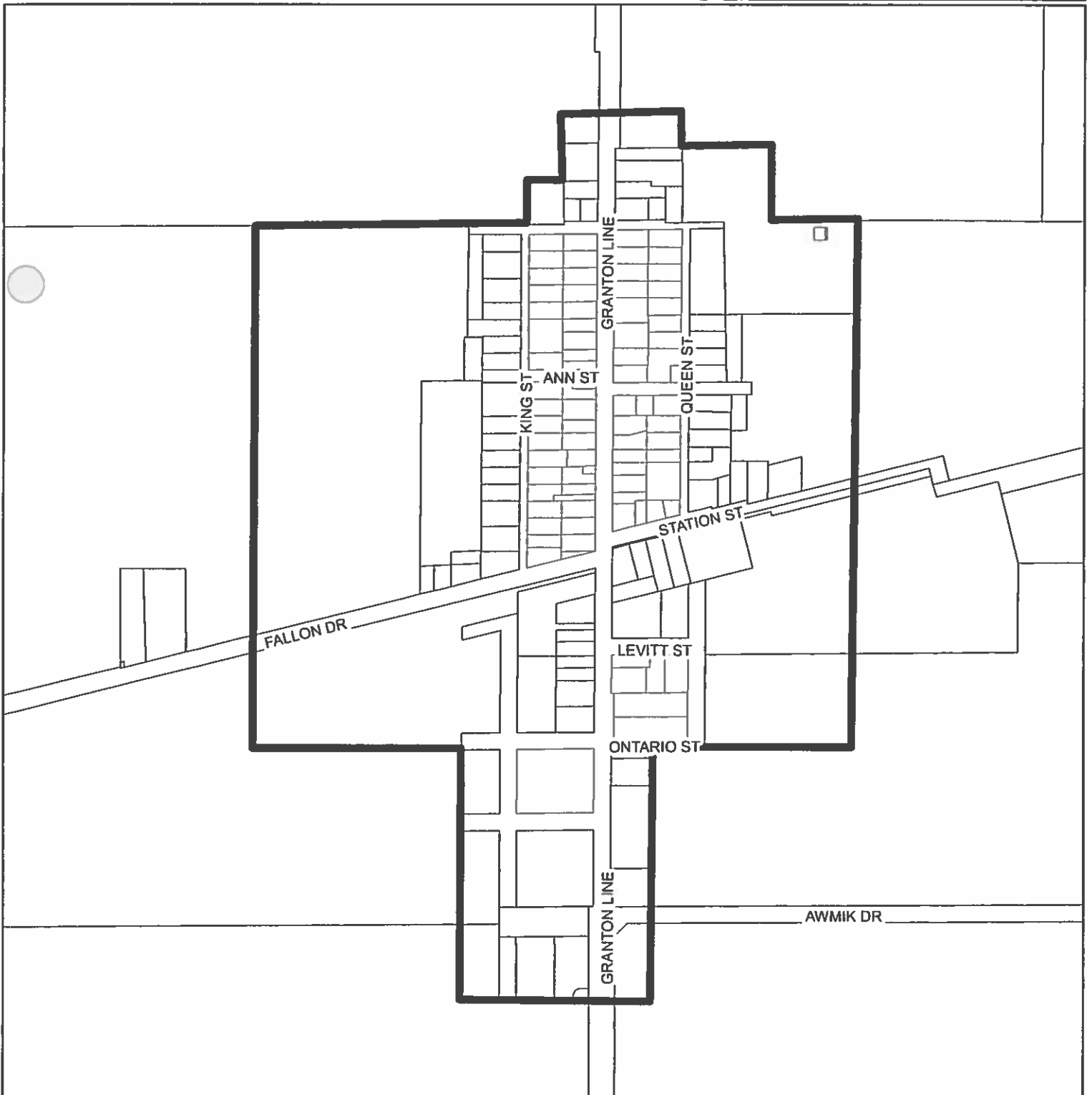


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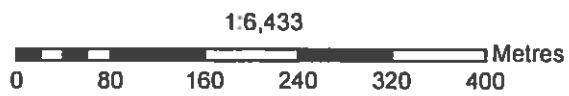


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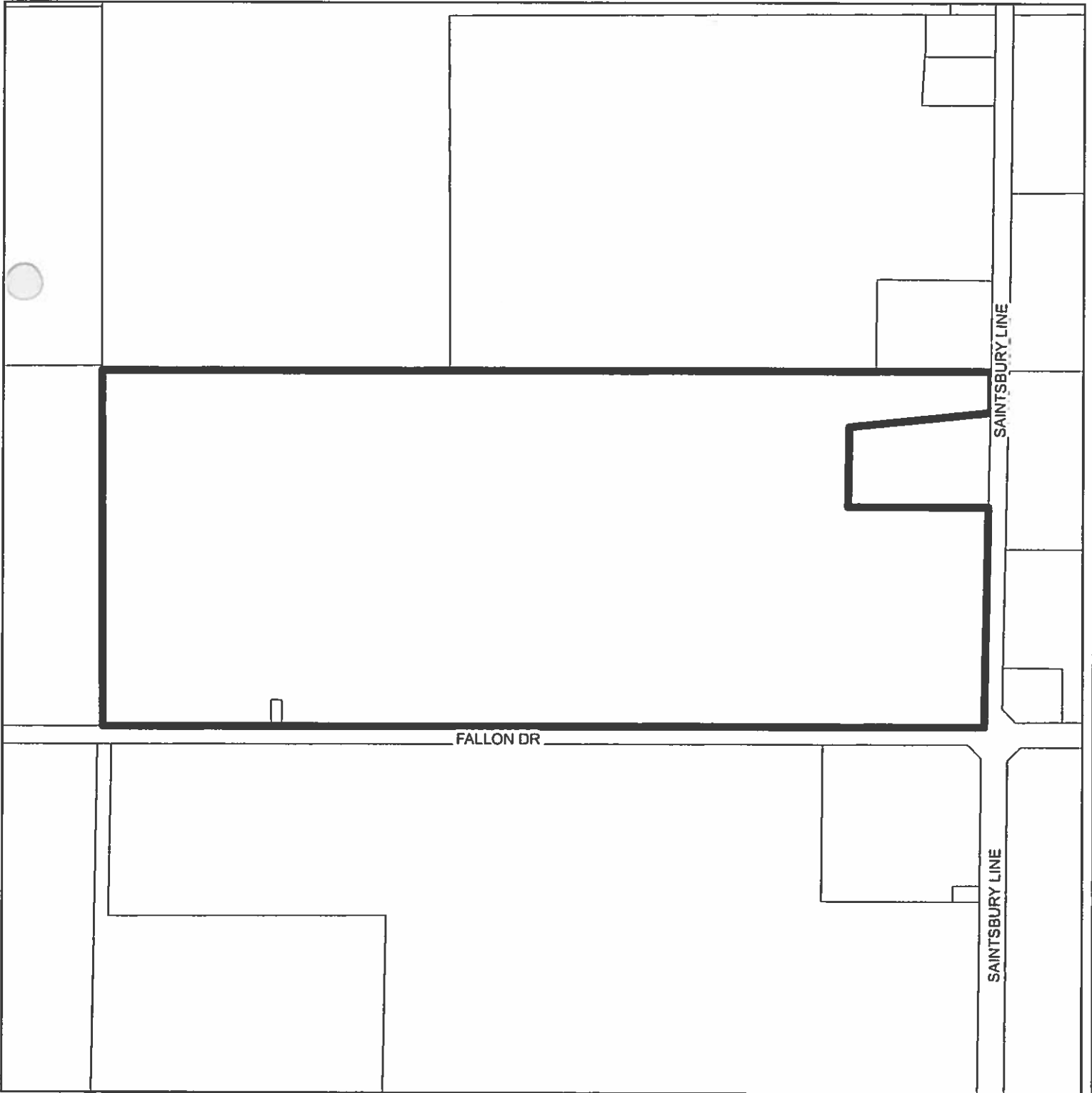


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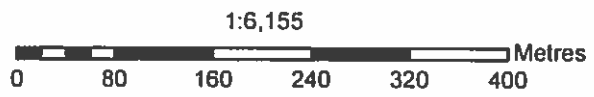


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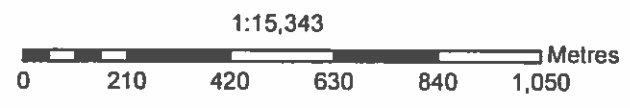
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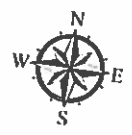
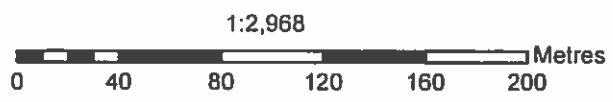
Township of LUCAN BIDDULPH



RICHMOND ST

MOORESVILLE DR

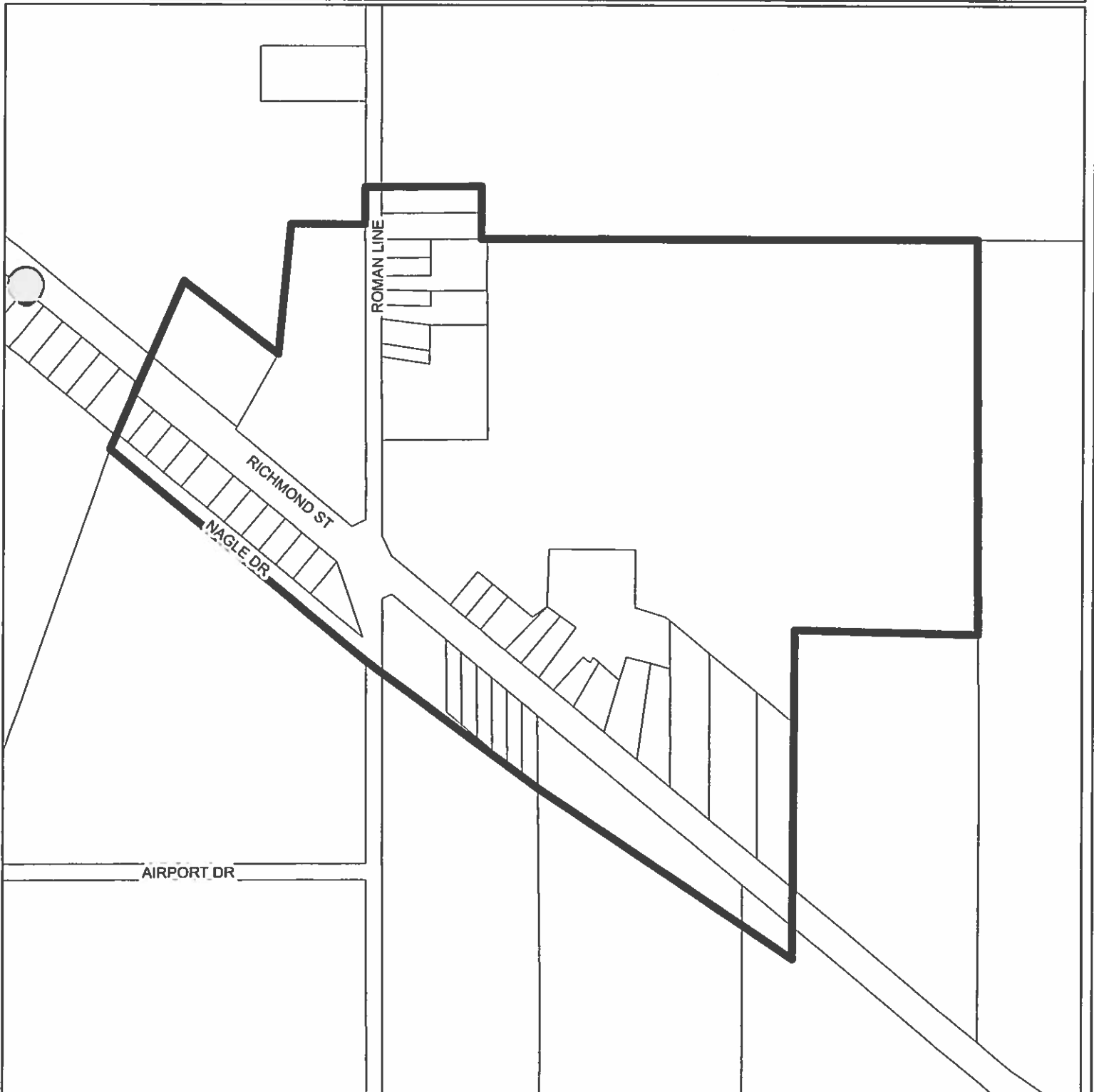
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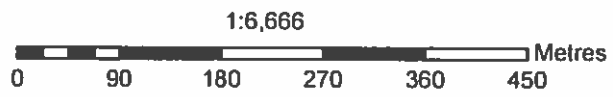
SCHEDULE "A"



Township of LUCAN BIDDULPH



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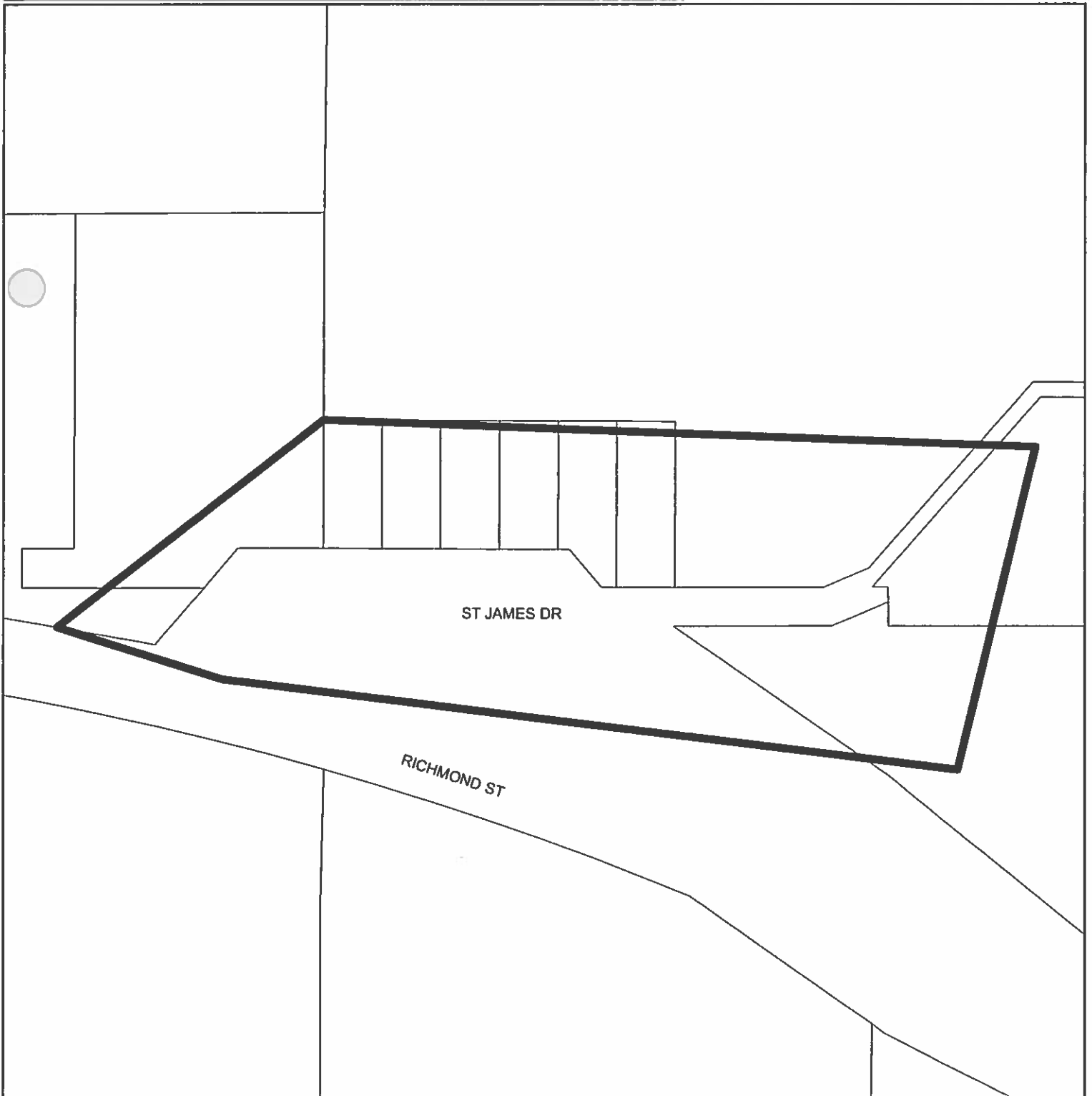


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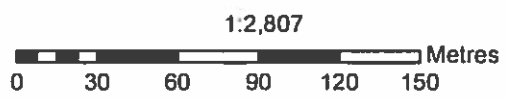


Township of
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THIS IS SCHEDULE "A" TO BY-LAW No. 23-2017
PASSED THIS 1st DAY OF May, 2017.



**TOWNSHIP OF LUCAN BIDDULPH
BY-LAW 23-2017
OPEN AIR BURNING BY-LAW**

**SCHEDULE "B"
SHORT FORM WORDING AND SET FINES
PART I PROVINCIAL OFFENCES ACT**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Burn on poor air quality day or high risk period	Sect 2	\$ 250.00
2.	Smoke or debris causing hazard on roadway	Sect 3	\$ 200.00
3.	Smoke causing loss of enjoyment to neighbouring properties	Sect 4	\$ 100.00
4.	Cooking or recreational fire not in safe location	Sect 5(a)	\$ 100.00
5.	Cooking or recreational fire fueled by prohibited burn materials	Sect 5(b)	\$ 200.00
6.	Cooking or recreational fire left unsupervised	Sect 5(c)	\$ 100.00
7.	Cooking or recreational fire with no means of extinguishment	Sect 5(d)	\$ 100.00
8.	Fail to extinguish cooking or recreational fire	Sect 5(e)	\$ 100.00
9.	Open fire burning in restricted area without restricted area burning permit	Sect 6	\$ 200.00
10.	Set fire for training purposes or demonstration without approval	Sect 7	\$ 200.00
11.	Burning prohibited material	Sect 8	\$ 300.00
12.	Fail to call Fire Dispatch	Sect 9(a)	\$ 100.00
13.	Burning outside daylight hours	Sect 9(b)	\$ 100.00
14.	Fail to supervise open fire in unrestricted area	Sect 9(e)	\$ 100.00
15.	Open fire with no means of extinguishment	Sect 9(f)	\$ 100.00
16.	Fail to extinguish open fire in unrestricted area	Sect 9(g)	\$ 100.00
17.	Burning of materials not generated on property	Sect 9(h)	\$ 300.00
18.	Open fire in unrestricted area without burning permit	Sect 9(i)	\$ 300.00

NOTE: The penalty provision(s) for the offence(s) indicated above is Section 12.1 of By-law Number 23-2017, a certified copy of which by-law has been filed.

SCHEDULE "C"
to
By-law No. 23-2017

CONTROLLED BURN PERMIT

Fire Department Emergency Telephone: 911	Application Date:
Lucan Biddulph Fire Department: 519-494-0341 Biddulph Blanshard Fire Department: 519-801-0812	
Strathroy Caradoc Police Services Communication Centre 1-519-245-1300 1-844-220-1300	
Name of Owner/Tenant:	
Municipal Address:	
Telephone:	
Proposed Date of Controlled Burn:	
Proposed Time of Controlled Burn:	
Type of Fire: (dwelling, brush, barn, etc.)	
Location of Fire:	
Specify Type of Burn Matter:	
On-Site Methods of Extinguishment:	
Owner/Tenant's Signature:	
Fire Chief/Designate's Signature:	
Date of Permit:	

The Applicant agrees to comply with the Provisions of By-law #58-2008 and agrees to assume all responsibility for any damages occurring from the fire, including the cost of extinguishment by the Fire Department, if required.

The material to be burned shall be limited to wood or by-products of wood. A person who has obtained a burn permit pursuant to this section shall:

- i) permit approximately one (1) cubic metre of material to be burned at any one time, unless otherwise approved;
- ii) ensure that the means of extinguishing the fire designated on the permit form is available at the site at all times during the fire; and
- iii) ensure that the applicant or some designated responsible person is on the site at all times attending the fire.

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 23-2017, of the Township of Lucan Biddulph, attached hereto are the set fines for those offences. This Order is to take effect July 26, 2017.

Dated at London this 26th day of July, 2017.



Stephen J. Fuerth
Regional Senior Justice
West Region

**TOWNSHIP OF LUCAN BIDDULPH
BY-LAW 23-2017
OPEN AIR BURNING BY-LAW**

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NOTE: The penalty provision(s) for the offence(s) indicated above is Section 12.1 of By-law Number 23-2017, a certified copy of which by-law has been filed.

I hereby certify this is a true copy of the original document which has not been altered in any way.



Ron Reymers, Deputy Clerk
Township of Lucan Biddulph

05/08/2017
mm/dd/yyyy