

THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE

BY-LAW NUMBER 2016-056-FR

BEING A BY-LAW to regulate Open Air Burning and
to repeal By-law 2006-052-FR.

WHEREAS Part 2 Section 7.1 (1) (b) of the *Fire Protection and Prevention Act, 1997* provides that the Council of a municipality may pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 130 of the *Municipal Act, 2001* provides that a municipality may regulate matters not specifically provided for by that Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE ENACTS AS FOLLOWS:

DEFINITIONS

1. (a) "Council" means the Council of the Corporation of the Town of Whitchurch-Stouffville.
- (b) "Fire Chief" means the Fire Chief of the Town of Whitchurch-Stouffville, as appointed by Council or his / her duly authorized representative.
- (c) "Officer" means any member of the Town of Whitchurch-Stouffville Fire and Emergency Services or any By-law Enforcement Officer, as appointed by Council.
- (d) "Open Air Burning" and "Open Air Burn" means a fire set by any Person within the boundaries of the Town of Whitchurch-Stouffville, but do not include small confined fires for the purposes of cooking food on a grill or barbeque or "Recreational Fires."
- (e) "Town" means The Corporation of the Town of Whitchurch-Stouffville and/or the geographic area within the Town of Whitchurch-Stouffville, as the context requires.
- (f) "Person" includes a natural person or his/her legal representative, a corporation, partnership or other form of business association, and a receiver or mortgage in possession.
- (g) "Recreational Fire" means the burning of clean wood products for cooking, heating, enjoyment, religious ceremony or similar purposes.

REQUIREMENTS FOR OPEN AIR BURNING

2. THAT No Person shall conduct, or allow to be conducted on lands owned or occupied by such person, any Open Air Burning within the Town without having first obtained an Open Air Burning Permit issued by the Fire Chief in the form attached as Schedule "A" hereto.
3. AND THAT prior to the issuance of an Open Air Burning Permit, the applicant therefore shall:

- (a) pay the fees prescribed in respect of such Open Air Burning Permit by the Town's By-law to Establish Fees for Fire Services;
 - (b) allow the lands upon which Open Air Burning is proposed to be conducted to be visited by an Officer or Officers in order to determine the suitability of such lands for an Open Air Burning Permit; and;
 - (c) sign the Open Air Burning Permit.
4. AND THAT the Fire Chief may revoke any Open Air Burning Permit at any time.
5. AND THAT the Fire Chief may refuse to allow Open Air Burning when a Fire Ban has been declared, or when, in the opinion of the Fire Chief, it is not in the interest of public safety to allow Open Air Burning or issue an Open Air Burning Permit.
6. AND THAT all Open Air Burning Permits are subject to the Open Air Burning Safe Practices set out in Schedule "A" hereto.
7. AND THAT notwithstanding Section 6, the Fire Chief may provide written relief from the Open Air Burning Safe Practices as set out in Schedule "A" hereto.
8. AND THAT no Person shall conduct, or allow to be conducted on lands owned or occupied by such Person, any Open Air Burning within the Town unless the Open Air Burning Safe Practices set out in Schedule "A" hereto are complied with, except to the extent to which the Fire Chief has provided written relief from compliance with any such practices pursuant to Section 7.
9. AND THAT all Persons conducting an Open Air Burn in the Town shall:
- a) be responsible for any damage to property or injury to persons occasioned by said fire; and
 - b) be liable for costs incurred by the Town's Fire and Emergency Services on account of the personnel, equipment and apparatus, called to extinguish said fire in the event of non-compliance with any provision of this by-law, which costs may be recovered by the Town in the same manner as municipal taxes.

OPEN AIR BURNING BANS

10. AND THAT the Fire Chief may declare an Open Air Burning Ban at any time when in his opinion it is in the interest of public safety to do so.
11. AND THAT notwithstanding Section 10, the Fire Chief, when satisfied of the need, may authorize an Open Air Burn during the time period when an Open Air Burning Ban has been imposed.

RESTRICTED OPEN AIR BURNING AREAS

12. AND THAT the Fire Chief may prohibit Open Air Burning in designated built-up areas of the Town.
13. AND THAT open Air Burning is not permitted during construction within any subdivision or on any construction site within the Town.

14. AND THAT open Air Burning Permits will not be issued in respect of Open air Burning proposed to be conducted on parcels of land having an area of less than one (1) acre (.40 ha.).
15. AND THAT notwithstanding Sections 12, 13, and 14 of this by-law, an Open Air Burning Permit may be issued by the Fire Chief when satisfied of the need and circumstance.

REQUIREMENTS FOR RECREATIONAL FIRES

16. AND THAT no Person shall conduct, or allow to be conducted on lands owned or occupied by such Person, any Recreational Fires within the Town unless the conditions set out in Schedule "B" hereto are complied with.
17. AND THAT notwithstanding Section 12 of this by-law, Recreational Fires are permitted anywhere in the Town subject to the Recreational Fire Conditions set out in Schedule "B" hereto.

OFFENCES

18. AND THAT any Person who contravenes any provision of this by-law is guilty of an offence and upon conviction is subject to a penalty pursuant to the Provincial Offences Act.
19. AND THAT a conviction for a contravention of any provision of this by-law shall not operate as a bar to a prosecution of the same offender for any continued or subsequent contravention of this by-law.
20. AND THAT in the event of a contravention of any provision of this by-law, the Town, in addition to any other remedies it may have at law, may enter upon the lands upon which such contravention took place and do such work as is necessary to rectify same, and all expenses incurred in connection therewith shall be recoverable from the owner of the said lands by action or in the same manner as municipal taxes.

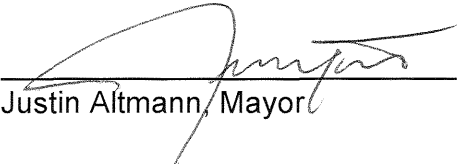
MISCELLANEOUS

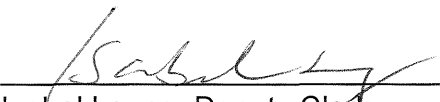
21. AND THAT if a court of competent jurisdiction finds any provision of this by-law to be invalid for any reason, such provision shall be severable from the remainder of this by-law, and such finding shall not invalidate any other provision hereof.
22. AND THAT if any provisions of this by-law are inconsistent with the Fire Protection and Prevention Act, the Ontario Fire Code, the Forest Fire Prevention Act, the Environmental Protection Act or any other Federal or Provincial Act or regulation, the provisions of the applicable Act or regulation shall take priority.
23. AND THAT in this by-law, unless the context otherwise requires, words importing the singular number shall include the plural, words importing the masculine gender shall include the feminine, and words importing the feminine gender shall include the masculine.

24. AND THAT Schedules "A" and "B" shall form part of this By-law.
25. AND THAT By-Law 2006-052-FR is hereby repealed.

READ a first and second time this 17th day of May, 2016.

READ a third time and passed this 17th day of May, 2016.


Justin Altmann, Mayor


Isabel Leung, Deputy Clerk

SCHEDULE "A"



Whitchurch-Stouffville Fire and Emergency Services
100 Weldon Road, Stouffville, ON L4A 1N2
Administration: (905) 640-9595
Fax: (905) 640-9517

BURNING PERMIT # _____

**EMERGENCY - DIAL 911
PERMIT FOR OPEN AIR BURNING**

Date Issued: _____ Expires: _____

Location: (Civic Address) _____

Property Owner: _____ Permit Applicant: _____

Address: _____

Postal Code: _____ Phone Number: _____

E-mail Address: _____

Tenant/Occupant: _____ Phone Number: _____

Means of Extinguishment Available: _____

THE APPLICANT HAS REVIEWED OPEN AIR BURNING BY-LAW 2006-052-FR AND AGREES TO:

- 1. COMPLY WITH ALL OF THE PROVISIONS OF THE BY-LAW.**
- 2. ADDITIONAL PROVISIONS (if any)** _____

- 3. ASSUME ALL RESPONSIBILITY FOR ANY DAMAGES AND/OR SERVICE FEES RESULTING FROM THE OPEN AIR BURNING FOR WHICH THIS PERMIT IS ISSUED.**

Permits are valid for the calendar year issued. The permit administration fee is to be paid upon issuance of the permit. **PERMIT FOR OPEN AIR BURNING MUST BE AVAILABLE AND ON SITE AT ALL TIMES.**

Date

Signature of Applicant

The information being provided on this form may constitute "personal information" as defined by the Municipal Freedom of Information and Protection of Privacy Act, 1989. The information is collected under authority of the Municipal Act, R.S.O. 1980, Chapter 302. Questions about this collection of personal information should be directed to the Town Clerk.

Open Air Burning Safe Practices:

1. Open Air Burning must occur between sunrise and sunset only.
2. The Permit must be on site and available for inspection at all times.
3. A responsible party of legal age must be in attendance at all times during the Open Air Burn, and must supervise the Burn until it is completely extinguished.
4. A telephone number where the responsible party referred to in paragraph 3 can be reached must be provided.
5. The responsible party referred to in paragraph 3 shall be equipped with sufficient water or tools to contain the fire and must have a means of contacting the Town's Fire and Emergency Services in case of an emergency.
6. The Open Air Burn shall not be permitted when an Air Quality Advisory has been issued, when the wind speed exceeds 20 kph, when the wind direction is changing frequently or when there is decreased visibility on any highway in the vicinity.
7. Only clean dry brush, wood products and natural organic material may be burned.
8. Petroleum products, plastics, rubber, painted lumber, domestic, industrial, agricultural waste, animal carcasses or any other material that will cause excessive smoke or noxious fumes must not be mixed with or contaminate the wood or brush that may be burned.
9. Notwithstanding anything in this By-law, no Person shall:
 - a) set more than one (1) fire at any given time
 - b) set or maintain a fire at a distance of less than ten (10) metres from any building, hedge, fence, roadway, overhead wire or obstruction of any kind or nature whatsoever.
10. Notwithstanding anything in this By-law, no Person shall set an uncontained fire such as a grass fire.
11. Piled material to be burned shall not be more than 2m in diameter or 2m in height.
12. Open Air Burning shall not be permitted if it causes smoke or odour to such an extent as to cause discomfort to persons residing in the immediate area.
13. Open Air Burning Permit holders must ensure that Officers have full access to the lands upon which the Open Air Burn is conducted at all times during the activation of the Permit.

SCHEDULE "B"

Recreational Fire Conditions

Permits are not required for Recreational Fire, but the following conditions must be compiled with:

1. Fire must not exceed .75m in diameter or .75m in height and must be contained to prevent the spread of fire.
2. Only clean wood products may be burned.
3. Petroleum products, plastics, rubber, painted lumber, domestic, industrial, agricultural waste or any other material that will cause excessive smoke or noxious fumes must not be mixed with or contaminate the wood that may be burned.
4. Recreational Fires must be supervised by a competent person at all times until they are completely extinguished.
5. There must be present and in close proximity adequate means to extinguish the fire.
6. A minimum distance of 3m to combustible materials must be maintained at all times.
7. Recreational Fires shall not be permitted when the wind speed exceeds 20kph, when the wind direction is changing frequently, or when there is decreased visibility on any highway in the vicinity.
8. Recreational Fires shall be prohibited when an Open Air Burning Ban has been declared by the Fire Chief.
9. Recreational Fires are prohibited during construction within any subdivision or on any construction site within the Town.
10. Outdoor fireplaces must be equipped with screens on the flue and fuel loading area.
11. The use of outdoor fireplaces must comply with the manufactures' guidelines.
12. In the event that there are no manufactures' guidelines for the outdoor fireplace, only approved material may be burned, a minimum three meter (3m) clearance must be maintained between the fireplace and combustible objects.
13. Outdoor fireplaces must be installed on a non-combustible surface.
14. Recreational Fires that emit excessive amounts of smoke or sparks or create a nuisance are not permitted and must be extinguished.
15. The Fire Chief may at any time require that a Recreational Fire be extinguished.
16. The resident or occupant of any land on which a Recreational Fire is occurring must ensure that Officers have full access to the said land at all times during the Recreational Fire.