



**Consolidated Version as of November 20, 2021 Amended by By-laws: 2007-100, 2014-044**

## **THE CORPORATION OF THE TOWN OF OAKVILLE**

### **BY-LAW NUMBER 2006-174**

A by-law to regulate open air burning in the  
Town of Oakville.

**WHEREAS** section 2.6.3.4 of the Ontario Fire Code, Ontario Regulation 388/97, prohibits open air burning 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 7.1(1) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, authorizes the Council for The Corporation of the Town of Oakville ("Council") to pass by-laws regulating fire prevention and 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, S.O. 2001, c. 25, as amended, authorizes Council to regulate matters related to health, safety and well-being of the inhabitants of the Town of Oakville;~~

section 128 of the Municipal Act, 2001, S.O. 2001, c. 25, provides that, without limiting sections 9 and 10, a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances, and the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court; Amended by By-law 2014-004

**AND WHEREAS** Council considers excessive smoke, smell, airborne sparks, or embers as having the potential to create negative health effects on neighbouring residents, increase fire hazards and infringe the enjoyment of the use of neighbouring properties. Amended by By-law 2014-044

### **THE COUNCIL ENACTS AS FOLLOWS:**

#### **Part 1**

#### **DEFINITIONS AND ADMINISTRATION**

##### **1.1 Definitions**

For the purpose of this by-law:



- (a) "**Applicant**" means 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 of brush on a farm.
- (b) "**Barbeque**" means appliances including a hibachi, a structure designed and intended solely for the cooking of food in the open air, and other similar commercially manufactured 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 pits or campfires.
- (c) "**Farm**" means premises associated with and located on land devoted to the practice of farming and used primarily for the housing of equipment or livestock or the production, storage or processing of agricultural and horticultural produce or feeds, but is not used for residential purposes.
- (d) "**Fee By-law**" means a by-law, passed by the Council of the Town of Oakville prescribing fees for permits or services provided by the Fire Department.
- (e) "**Fire Chief**" means the Fire Chief for the Town of Oakville Fire Department or such designate appointed by the Fire Chief, or designated under this by-law, acting under the Fire Chiefs direction.
- (f) "**Fire Department**" means the Town of Oakville Fire Department and any member thereof.
- (f.1) "**Nuisance**" means significant smoke or odour that interferes with the ability of neighbours to enjoy their properties or conduct their business without disruption.  
As amended by By-law 2014-044
- (g) "**Open Air Burning**" means the burning of any material outside of a building, 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.
- (h) "**Open Burning Device**" ~~means any commercially manufactured device for the purpose of containing a recreational fire.~~  
means any commercially manufactured device for the purpose of containing a recreational fire, and also includes an outdoor fireplace. As amended by By-law 2014-044
- (h.1) "**Outdoor Fireplace**" means a noncombustible structure designed to hold a fire for decorative or recreational purposes. As amended by By-law 2014-004
- (h.2) "**Pit**" means an open space no larger than 61 centimetres (2 feet) by 61 centimetres (2 feet) and no more than 21 centimetres (8 inches) above grade with a maximum depth of 42 centimetres (16 inches). As amended by By-law 2014-044
- (i) "**Town**" means The Corporation of the Town of Oakville.

## 1.2 Administration

This by-law shall be administered by the Fire Chief for the purposes of subsections 2.7 (h) and (i), and Section 2.8 of this by-law, all members of the Fire Department, attending in response to an open air burning are appointed as designates of the Fire Chief, acting under direction of the Fire Chief.

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**Part2**

**GENERAL PROVISIONS**

**2.1 Prohibition - Open Air Burning**

No person shall conduct, or permit to be conducted, an open air burning within the boundaries of the Town of Oakville unless:

- (a) Permission has been given by the Fire Chief hereunder; and
- (b) That person complies with all applicable regulations specified in this by-law;

**2.2 Exception - Recreational Burning**

Permission is not required from the Fire Chief for open air burnings associated with the use of open burning devices or pits specifically designed for open air burnings, provided that each of the following regulations are complied with:

- (a) Open air burning may only be conducted between the hours of 10:00 a.m. and 11:00 p.m.; and
- (b) Open burnings shall be confined to open burning devices or to a pit no larger than 61 centimetres (2 feet) by 61 centimetres (2 feet) in size. When in use, the open burning device or pit shall be covered with a grill or a metal screen having a mesh size no larger than 2.5 centimetres (1 inch), which is positioned in such a manner as to prevent the escape of combustible materials including ash;
- (c) No more than 21 centimetres (8 inches) of the containment area shall be above grade with a maximum depth of 42 centimetres (16 inches);
- (d) No materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood, not including pressure treated wood or creosote treated wood, may be burned;
- (e) The dimensions of the wood being burned shall not be greater than the size of the open burning device or fire pit and shall be totally confined within the open burning device or pit at all times;
- (f) Open air burning shall be confined to a location that provides for a minimum distance of 3 metres (9.8 feet) in all directions from adjacent properties;
- (g) Open air burning shall be confined to an area that is a minimum of 3 meters (9.8 feet) from combustible structures or objects;
- (h) An effective extinguishing agent or device of sufficient size and with the capability of extinguishing the fire shall be immediately available for use;
- (i) Open air burning shall be attended, controlled and supervised at all times and shall be completely extinguished before the open air burn site is vacated;
- (j) open air burning is not permitted when the wind speed exceeds 30 kilometres per hour, or during rainy or foggy weather, or at times when a smog alert has been declared by the Ministry of the Environment for Ontario;

- (k) ~~Any other steps shall be taken as may be reasonably necessary to prevent the fire from getting beyond control or causing damage or becoming a danger to life and/or property; should the Fire Department be dispatched to a complaint regarding public safety due to fire hazard, the Fire Department will have the discretion to determine compliance with this section of the by-law and this decision shall be final;~~  
~~Any other steps shall be taken as may be reasonably necessary to prevent the fire from getting beyond control or causing damage or becoming a danger to life and/or property; should the Fire Department be dispatched to a complaint regarding public safety due to fire hazard, the Fire Department will have the discretion to determine compliance with this section of the by-law and to order the fire extinguished. This decision shall be final; As amended by By-law 2007-188~~  
Any other steps shall be taken as may be reasonably necessary to prevent the fire from getting beyond control or causing damage or becoming a danger to life and/or property; should the Fire Department be dispatched to a complaint regarding public safety due to fire hazard, or where the requirements in section 2.2 are not complied with, the Fire Department may order the fire extinguished in accordance with section 2.8. This decision shall be final; As amended by By-law 2014-044
- (l) Open air burning is permitted at ground level only; As amended by By-law 2007-188
- (m) Open air burning shall not create a nuisance; and
- (n) Subsections (c), (f), (g) and (l) do not apply to an outdoor fireplace. As amended by By-law 2014-044

### **2.3 Exception - Barbecues**

Permission is not required from the Fire Chief for the use of barbecues to cook food, provided the following regulations are complied with:

- (a) The barbeque shall be supervised at all times and should be placed on non-flammable material; and
- (b) The fuel used is a commercially produced charcoal or briquette, or a flammable liquid commercially produced for the purpose of cooking, such as natural gas and propane gas.

### **2.4 Exception - Regional or Provincial Fire Pits**

No permission is needed from the Fire Chief for the operation of fire pits installed by the Region of Halton or the Province of Ontario located on Regional or Provincial beaches and parks, or privately installed fire pits located in campgrounds and tourist parks as approved by the Region of Halton or the Province of Ontario.

### **2.5 Exception - Brush Burning on Farms**

In accordance with the general exemption for farms contained in section 1.1.6.1 of the Ontario Fire Code, Ontario Regulation 388/97, brush burning shall be permitted on farms so long as the special regulations as set out in Part 3 of this by-law are adhered to.

### **2.6 Exception - Fire Department**

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

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## 2.7 Permit - Special Events

- (a) All persons seeking permission to hold a special event involving an open air burning that is not exempted as per section 2.2, 2.3 or 2.4, shall apply to the Fire Chief for a permit.
- (b) Application shall be made at least one week prior to the proposed date of the event on a form supplied by the Fire Chief and such application should be accompanied by the applicable fee as set out in the Fee By-law. Registered not-for-profit charitable organizations may make application to the Fire Chief requesting a permit fee exemption.
- (c) The Fire Chief may issue permits to allow a special event to reoccur over an extended period of time.
- (d) Prior to granting a permit to hold an open air burning for a special event, the Fire Chief shall give consideration to the proposed location of the event, size of the fire, safety measures, supervision arrangements, the time of year, the time of day, and the anticipated weather conditions.
- (e) The Fire Chief may refuse to grant a permit for any of the following reasons:
  - (1) The proposed open air burning would be in contravention of this by-law;
  - (2) The applicant has contravened the provisions of this by-law in the past;
  - (3) the applicant has not complied with any conditions attached to a permit for an open air burning that may have been imposed by the Fire Chief on a previous occasion; or
  - (4) The special event is proposed to take place on land that is zoned for residential uses.
- (f) The Fire Chief shall not give permission for open air burning of any non-wood combustible material, pressure treated wood or creosote treated wood. Permissible fuels include clean dry seasoned wood, commercially produced charcoal, briquettes and flammable liquids, such as natural gas and propane gas intended for cooking.
- (g) The Fire Chief may attach such conditions as deemed appropriate to any permit granted for an open air burning at a special event.
- (h) The Fire Chief may withdraw permission for and/or stop an open air burning if, in the opinion, the fire presents a fire hazard, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated and has become unfavourable for an open air burning, conditions attached to the granting of permission are not being adhered to, or if this by-law is being contravened.
- (i) Upon the notification of the withdrawal of permission by the Fire Chief, the applicant shall immediately extinguish the fire. Should the applicant fail to immediately extinguish the fire upon notification from the Fire Chief, the applicant may be held liable for any and all costs incurred by the Fire Department in its efforts to extinguish the fire in accordance with the Fee By-law.

## 2.8 Order to Extinguish Unapproved Fires

- (a) When made aware of a prohibited open air burning not authorized under this by-law, the Fire Chief shall order the land owner or occupant to immediately extinguish the fire.

- (b) The owner or occupant of land on which a prohibited open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Chief.
- (c) Should any land owner or occupant fail to extinguish 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 open air burning is located shall be responsible for any and all costs incurred by the Fire Department in its efforts to extinguish the fire in accordance with the Fee By-law.
- (d) On the third attendance in any calendar year to a particular municipal address, the Fire Department shall immediately take whatever steps are necessary to extinguish a fire that is an open air burning found not to be in compliance with this by-law. 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 Fire Department in its efforts to extinguish the fire in accordance with the fees set out in the Fee By-law.

### Part 3

#### SPECIAL REGULATIONS FOR FARMS

##### 3.1 Regulations for Open Air Burnings on Farms

The following regulations shall apply with respect to open air burnings on farms:

- (a) No person shall conduct, or permit to be conducted, an open air burning on a farm, which is not authorized under section 2.2 (recreational burning) or section 2.3 (barbeques), without first notifying the Fire Department in person or by telephone;
- (b) All persons who are required to give notification prior to an open air burning on a farm, shall also notify the Fire Department in person or by telephone at the conclusion of the burning;
- (c) Open air burnings on farms may only be conducted between the hours of 8:00 a.m. and 6:00 p.m.;
- (d) No materials other than dry brush may be burned;
- (e) Open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated;
- (f) Any other steps shall be taken as may be reasonably necessary to prevent the fire from getting beyond control or causing damage or becoming a danger to life and/or property;
- (g) Open air burning is not permitted when the wind speed exceeds 30 kilometres per hour, or during rainy or foggy weather, or at times when a smog alert has been declared by the Ministry of the Environment for Ontario;
- (h) An open air burning shall be confined to an area that is at least 45 metres (150 feet) from any building, highway, road, or wooded area; and
- (i) Steps must be taken to ensure that smoke caused by an open burn does not have a negative impact the visibility of motorists using roads in the vicinity of the burn.

### **3.2 Notification to Extinguish**

All persons conducting an open air burning on a farm shall immediately extinguish the fire upon notification that in the Fire Chiefs opinion, the said fire presents a fire hazard, the fire is having a negative impact on persons using a road or highway adjacent to the burn site, or the regulations of this by-law are being contravened.

### **3.3 Failure to Extinguish - Liable for Costs**

Should any landowner or occupant fail to extinguish a prohibited open air burning on a farm 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 open burning is located shall be responsible for any and all costs incurred by the Fire Department in its efforts to extinguish the fire in accordance with the fees set out in the Fee By-law.

## **Part4**

### **ENFORCEMENT**

#### **4.1 Offence**

No person shall fail to comply with the provisions in this by-law and any person who contravenes this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

#### **4.2 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.

#### **4.3 Collection of Costs**

~~The Town of Oakville has 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 a like manner as municipal taxes in accordance with section 427 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.~~

The Town of Oakville has 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 the same manner as municipal taxes in accordance with Section 398 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended. As amended by By-law 2014-044

## **Part 5**

### **ENACTMENT**

#### **5.1 Headings**

The headings in the body of this by-law form no part of the by-law and are inserted for convenience of reference only.

**5.2 Severability**

If any section or sections of this by-law or parts thereof is found by any court to be illegal or beyond the power of Council 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 there from and continue in full force and effect unless and until similarly found and this by-law shall be enacted as such.

**5.3 Short Title**

The short title of this by-law is "Open Burning By-Law".

**5.4 Effective Date**

This by-law comes into force on the day it is passed by Council.

PASSED this 31 day of March, 2014.

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Rob Burton Mayor

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Vicki Tytaneck Acting Town Clerk