

BY-LAW NO. 2007-235

THE CORPORATION OF THE CITY OF OWEN SOUND

A BY-LAW FOR PRESCRIBING TIMES DURING WHICH FIRES MAY BE SET IN THE OPEN AIR AND THE PRECAUTIONS TO BE OBSERVED BY PERSONS SETTING FIRES, AND FOR SETTING FEES FOR FIRE PERMITS AND TO REPEAL BY-LAW 2006-098

WHEREAS the Municipal Act, 2001, c.25 provides that Councils of local municipalities may pass By-laws to 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

WHEREAS, in the opinion of City Council, the setting of unregulated open air fires is or could become or cause a public nuisance; and

WHEREAS the Municipal Act, 2001, c.25 provides that Councils of local municipalities may pass By-laws to regulate matters not specifically provided for by this Act or any other Act for purposes related to health, safety and well-being of the inhabitants of the municipality; and

WHEREAS the Fire Code, O. Reg. 213/97, FPPA Article 2.6.3.4, 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.

NOW THEREFORE the Council of The Corporation of the City of Owen Sound hereby enacts as follows:

SECTION 1 - DEFINITIONS:

1. The following definitions shall apply to this By-law:
 - 1.1 "Agricultural waste" means any animal faecal deposits or manure, and animal carcasses.
 - 1.2 "Automotive waste" means used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics or other material which contents include any of the aforementioned.
 - 1.3 "City" means the Corporation of the City of Owen Sound.
 - 1.4 "Compostable materials" means waste products from plants, trees, or other vegetation that are naturally bio-degradable including grass clippings, leaves, tree needles, garden waste, and weeds.
 - 1.5 "Construction waste" means any material resulting from, or produced by, the complete or partial construction of a structure, including, but not limited to, pipe, concrete, asphalt, roofing material, masonry, wire, treated wood, particle board, paint, drywall, tar, and asphalt products.
 - 1.6 "Demolition waste" means any material resulting from or produced by the complete or partial destruction or tearing down of a building.
 - 1.7 "Domestic waste" means kitchen waste, food, scraps, cloth, rags, clothing, plastics and any other materials which contents include any of the aforementioned, including cardboard or newspaper.
 - 1.8 "Enforcing Officer" means a Fire Prevention Officer, a Fire Inspector, a Fire Official, a Police Officer or a By-law Enforcement Officer appointed by the City to enforce the provisions of the City of Owen Sound by-law, or a person specially appointed by Council to enforce specific provisions of this By-law.

- 1.9 "Fire Permit" means a permit issued under the authority of the Owen Sound Fire Chief or their designate.
- 1.10 "Industrial or Commercial waste" means any material resulting from, or produced by, any business, manufacturing process, trade, market or other undertaking.
- 1.11 "Open air fire" or "Open burning" means the outdoor combustion of permitted burning materials with or without control of the combustion air and without a stack or chimney to vent the emitted products of combustion to the atmosphere;
- 1.12 "Outdoor wood burning appliance" means a chiminea or other commercially produced small fire container for residential use, a fire pit or outdoor brick fireplace.
- 1.13 "Permitted burning materials" means untreated wood, pruning, branches, tree trunks, stumps, or other vegetation that have been allowed to dry for at least one (1) year and that do not constitute compostable materials.
- 1.14 "Public Nuisance" means the emission into the atmosphere of odour or smoke from open burning which disturbs the comfort and convenience of the neighbourhood or persons in the vicinity.
- 1.15 "Small confined fire" means a fire contained within a non-combustible base and edging, not exceeding one metre in diameter used for the purpose of cooking food.
- 1.16 "Smoke" means the gases, particulate matter, and all other products of combustion emitted into the atmosphere when a substance or material is burned including, without limitation, smoke, dust, gas, sparks, ash, soot, cinders, fumes, or other effluvia.

SECTION 2 - APPLICATION**2.1 SCOPE**

2.1 The scope of this By-law is as follows:

2.1.1 All lands within the corporate limits of the City of Owen Sound are subject to the provisions of this By-law.

2.1.2 This By-law shall not apply to approved camp fires located within City owned campgrounds.

2.2 FIRES FOR COOKING FOOD

2.2 No person shall use a fire for the preparation of food for human consumption except under the following conditions:

2.2.1 The fire is only between the hours of 1:00 a.m. and 12:00 a.m. (midnight); and

2.2.2 The fire is wholly contained within a permanent or portable barbecue or a small contained fire; and

2.2.3 The fire is supervised at all times; and

2.2.4 The odour or smoke from the fire does not create a public nuisance.

2.3 OUTDOOR WOOD BURNING APPLIANCES

- 2.3.1 No person shall use an outdoor wood burning appliance within the City without a permit, unless the following provisions are met:
 - 2.3.1.1 The manufacturer's installation instructions are followed; and
 - 2.3.1.2 The appliance is not placed on a wooden deck or combustible platform; and
 - 2.3.1.3 Only dry seasoned firewood is used and little or no smoke is created as a by-product; and
 - 2.3.1.4 A clearance of three (3) metres in all directions from other combustible materials is observed; and
- 2.3.5 The appliance is not used when a ban has been placed on all open air burning; and
- 2.3.6 Only one appliance may be used on a property at a time; and
- 2.3.7 Fires are permitted only between the hours of 4:00 p.m. and midnight; and
- 2.3.8 The appliance is constructed from non-combustible material;
- 2.3.9 Only a volume of combustible material of less than 46 centimetres wide by 46 centimetres long by 30 centimetres high is permitted to burn or attempted to burn; and
- 2.3.10 The fire is contained within the appliance at all times.

SECTION 3 - RESTRICTIONS FOR ALL FIRES

- 3.1 No person or owner of any land shall:
 - 3.1.1 Set, or permit to be set, an open air fire in the central business district in the City of Owen Sound as defined in the City of Owen Sound Official Plan, and set out in Schedule "B" of this By-law;
 - 3.1.2 Set a fire or allow a fire to burn in any highway, park, walkway, public land, or upon any land owned by or operated under agreement with the Corporation of the City of Owen Sound without having first obtained permission to do so from an Officer of the Corporation;
 - 3.1.3 Burn industrial or commercial waste, automotive waste, agricultural waste, construction waste, compostable materials, domestic waste, petroleum products, plastic, rubber, painted lumber, mixed demolition waste debris; or anything else that will cause excessive smoke or fumes which will create a public nuisance;
 - 3.1.4 Set, or permit to be set, a fire in an incinerator, burning barrel or similar device;
 - 3.1.5 Set a fire or permit a fire to burn when the wind is in such a direction or of such intensity so as to reduce the visibility on any highway or cause danger to any person or structure;
 - 3.1.6 Set a fire or permit a fire to burn when wind conditions are such that sparks, ash, or cinders may cause the fire to spread beyond the controlled area of the open burning;

- 3.1.7 Permit a fire to burn if an inversion forms, trapping smoke near the surface, creating a public nuisance on a nearby population;
- 3.1.8 Set a fire or permit a fire to burn if weather conditions on the site where the open burning is to take place are not suitable to the rapid dispersion of the smoke emissions to the atmosphere, creating a public nuisance on the nearby population;
- 3.1.9 Create, by the setting or burning of the fire, any odour or smoke which causes discomfort to any person residing in the area;
- 3.1.10 Set a fire or permit a fire to burn when rain or fog is present;
- 3.1.11 Set a fire or permit a fire to burn if a Smog Alert has been issued;
- 3.1.12 Set a fire or allow a fire to burn if the wind speed exceeds 15 km per hour during the open burning;
- 3.1.13 Burn materials other than commercially produced charcoal, briquettes, or permitted burning materials.

SECTION 4 - FIRE PERMIT REGULATIONS

- 4.1 No person shall set, burn or permit any fire to be set or burned, other than a small confined fire or a fire in an outdoor wood burning appliance, without first obtaining a Fire Permit.
- 4.2 The fee for the issuance of a fire permit are set out on Schedule "A" of By-law No. 2007-062.
- 4.3 The applicant for a fire permit shall:
 - 4.3.1 Complete the prescribed application form by providing information and indicating that the provisions of this By-law will be complied with;
 - 4.3.2 Pay the prescribed fee for the fire permit, to be issued by the Chief Fire Official or their designate.
 - 4.4 The Chief Fire Official may from time to time make amendments to the Fire Permit application form that is administrative in nature.
 - 4.5 Where a fire permit is required, no person shall:
 - 4.5.1 Set a fire or permit the setting of a fire, or having set or permitted the setting of a fire, permit a fire to continue to burn without first having obtained a fire permit, in the form attached as Schedule "A", from the Chief Fire Official, or their designate, and in accordance with the provisions of the permit and this By-law;
 - 4.5.2 Set a fire or permit a fire to burn between sunset and sunrise unless otherwise expressly permitted by permit;
 - 4.5.3 Set or maintain a fire, in the open air on a specified day for disposal of vegetable matter or vegetation on farm lands which is normal and incidental to farming purposes, without a fire permit first being issued to cover the period of the proposed fire and shall notify the Fire Department for each day of the proposed fire, provided the farmer complies with all provisions of this By-law;

- 4.5.4 Set a fire or allow a fire to burn on any land of which they are not the registered owner, without the written permission of the registered owner, which permission shall be evidenced by the signature of the registered owner of the land on the fire permit.
- 4.6 A fire permit may be cancelled or suspended at any time by the Chief Fire Official or their designate and immediately upon receiving notice of such cancellation or suppression the permitted applicant shall extinguish any fire started under the permit.
- 4.7 Where a fire permit has been issued pursuant to this By-law the applicant and the owner shall jointly and severally be responsible for any damage or injury to persons or property with respect to the setting of a fire or permitting the fire to burn and to insure that:
- 4.7.1 Not more than one (1) cubic metre of material is burned at any one time; and
- 4.7.2 Only dry material is burned (excluding leaves); and
- 4.7.3 The fire is kept at least 15 metres from any dwelling and/or from any structure, hedge, fence, vehicular roadway, overhead wire or combustible material whatsoever; and
- 4.7.4 The fire is attended at all times until it is completely extinguished; and
- 4.7.5 Sufficient equipment and resources are available at the burn site to extinguish the fire if the fire gets out of control or is causing any adverse effect including those set out in Section 3 above; and
- 4.7.6 The Owen Sound Fire & Emergency Services Department is informed, prior to setting the fire, of the approximate time the fire will be set and extinguished; and
- 4.7.7 At the end of the burn, that the fire is completely extinguished before leaving the burn site.

SECTION 5 - INSPECTIONS AND ORDERS

- 5.1 An Enforcing Officer or Fire Department official may enter, at all reasonable times, on any property that is subject to this By-law, to ascertain whether the regulations in this By-law are being complied with.
- 5.2 An Enforcing Officer or Fire Department official may order the extinguishing of any open burning that is in violation of this bylaw.
- 5.3 If, in the opinion of the Enforcing Officer or Fire Department official, the open burning poses an imminent danger to persons, structures or other properties, or smoke emissions are creating a public nuisance, the Enforcing Officer or fire department official may:
- 5.3.1 Require the open burning to be extinguished; or
- 5.3.2 Require that no additional burning material be added to the fire.
- 5.4 No person shall interfere with or obstruct an Enforcing Officer or Fire Department official while performing their duties pursuant to this By-law.

SECTION 6 - EXEMPTIONS

- 6.1 Nothing in Section 3 prohibits the following:
- 6.1.1 A small contained fire pursuant to Section 4 of this By-law;
- 6.1.2 A fire wholly contained in a permanent or portable barbecue.

SECTION 7 - OFFENCES AND PENALTIES

- 7.1 Any person who contravenes the provisions of this By-law is guilty of an offence and upon conviction therefore is subject to the penalty set out in the Provincial Offences Act.
- 7.2 Every person responsible for open burning who fails to heed the order of an Enforcing Officer or fire official, shall be responsible for all costs and expenses resulting from extinguishment by the Enforcing Officer, Fire Department official or Fire Department.
- 7.3 Where the provisions of this By-law are in conflict with the provisions of any other City By-law, the provisions of this By-law shall prevail.

SECTION 8 - SEVERABILITY

- 8. If, for any reason, any section, clause or provision of this By-law is declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this By-law as a whole or any part thereof other than the part which was declared to be invalid.

SECTION 9 - SHORT TITLE

- 9. This By-law may be cited as the "The City of Owen Sound Open Air Burning By-law".

SECTION 10 - REPEALED

- 10. By-law No. 2006-098 is hereby deemed to be repealed, subject to and the provisions of Section 11 hereof.

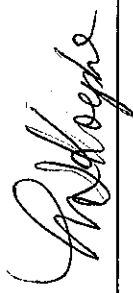
SECTION 11 - DATE OF EFFECT

- 11. This By-law shall come into full force and effect upon the final passing thereof and upon receipt of short form wording approval from the Regional Senior Justice.

FINALLY PASSED AND ENACTED this 3rd day of December, 2007.



Mayor



Clerk

SCHEDULE "A" TO BY-LAW 2007-235

CITY OF OWEN SOUND
FIRE & EMERGENCY SERVICES
1209 3rd Avenue East
Owen Sound, Ontario
N4K 2L6

Telephone (519) 376-2512

Fax (519) 372-0757

APPLICATION FOR A FIRE PERMIT
(Pursuant to Open Air Burning Bylaw No 2007-235)

The authority granted the applicant, by the issuance of this permit, may be revoked at anytime in accordance with By-law No. 2007-235.

Permit No. _____

Permit Fee _____

Applicants Name: _____

Mailing Address: _____

Telephone No: _____

Location of Burn: _____

Registered Owner: _____

Type of material to be burned: _____

Estimated quantity: _____

Proposed date for burn: _____

Person responsible for supervising burn: _____

Telephone # _____

I, the undersigned, make application for a Fire Permit, pursuant to Bylaw No 2007-235, and I confirm that the material to be burned meets the requirement of the Environmental Protection Act, and the conditions under which the burn will take place, meet the requirements of Bylaw No. 2007-235.

Date _____ Applicant's Signature _____

Date _____ Owner's Signature _____

Pursuant to the provisions of Bylaw No. 2007-235, this Permit authorizes

to hold a supervised open air fire at _____
on _____

NOTICE: FAILURE TO CONDUCT THE BURN IN ACCORDANCE WITH THE BYLAW MAY RESULT IN A FINE.

Date: _____ Per: _____ Issuing Officer _____

It is the responsibility of the applicant, PRIOR TO STARTING THE BURN, to call the Fire Department and inform them of the approximate time the burn will commence and end. Owen Sound Fire & Emergency Services (519) 376-2512.

Personal information on this form is collected under the authority of the Municipal Act, 2001, and will be used for the purpose of enforcing the provisions of Bylaw No. 2007- . Questions should be directed to the Fire Chief.

SCHEDULE "B" TO BY-LAW 2007-235

DISTRICT WHERE OPEN AIR BURNING IS PROHIBITED

NO OPEN AIR BURN DISTRICT

