

CORPORATION OF THE TOWN OF GEORGINA
IN THE
REGIONAL MUNICIPALITY OF YORK

BY-LAW NO. 2016-0019 (REG-1)

BEING A BY-LAW TO REGULATE OPEN AIR
BURNING

WHEREAS the Municipal Act, R.S.O. 1990,c.M.45 (as amended) authorizes Council to enact By-laws prescribing the times during which fires in the open air may be set and the precautions to be observed by person's setting out fires;

AND WHEREAS subsection 2.6.3.4. of the Ontario Fire Code (Ontario Regulation 388/97) enacted pursuant to the Fire Protection and Prevention Act, 1997, S.O. c. 4, as amended prohibits unapproved open air burning;

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;

AND WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act, 1997, S.O., c. 4, as amended 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.

NOW THEREFORE, the Council of the Town of Georgina, in the Regional Municipality of York, hereby enacts as follows:

1. DEFINITIONS

In this By-law:

- (a) "Chief Fire Official" means the Fire Chief of the Town of Georgina or such employees of the Corporation of the Town of Georgina who have been designated by the Fire Chief for the purposes of administration of this By-law;
- (b) "Corporation" means the Corporation of the Town of Georgina;
- (c) "fire" means the burning or combustion of materials in the open air, but shall not include any fire entirely contained in an apparatus designed, constructed or manufactured for the purpose of barbecuing food for consumption;

- (d) "permit" means a permit issued by the Chief Fire Official pursuant to the provision of this By-law in the form attached as Schedule "A" hereto;
- (e) "person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
- (f) "prohibited material" shall include the following:
 - (i) industrial materials;
 - (ii) automobile and truck bodies;
 - (iii) tires, oil, grease, paint;
 - (iv) cloth, rags;
 - (v) plastics;
 - (vi) shingles, dry wall, insulation, painted or treated wood and other materials whose contents includes any of the above;
 - (vii) animal husbandry refuse, such as animal fecal deposits or manure and animal carcasses;
 - (viii) leaves and grass clippings;
 - (ix) flammable or combustible liquids or accelerants;
 - (x) any material that is normally collected under a municipality's garbage, recycling, or yard waste collection programs;
- (g) "daylight hours" means the time period beginning one half hour before sunrise and ending one half hour after sunset;
- (h) "recreational fire" means a fire or campfire that is used for entertainment purposes, which may include cooking food, heating, enjoyment, religious ceremony or similar purposes and uses clean wood products;
- (i) "agricultural fire" means a fire set for the purposes of the disposal of vegetation on farm lands that is normal and incidental to farming purposes;
- (j) "outdoor fire place" shall include, but not be limited to, a steel fire box with a screened opening, clay fire pots, ceramic fire pots and acorn stoves. For the purpose of this by-law "outdoor fire places" shall be considered open air burning.

2. PURPOSE AND SCOPE

- 2.1 This By-law is intended to promote public health, safety and protect the welfare of the inhabitants of the municipality from air pollution, nuisances and fire hazards associated with outdoor open burning.

- 2.2 The provisions of this By-law shall apply to all lands and premises within the geographic confines of the Town of Georgina.

3. REGULATIONS

- 3.1 No person shall set a fire or allow a fire to burn except in accordance with the provisions of this By-law and all applicable federal, provincial and municipal laws and regulations.
- 3.2 No person shall set a fire or allow a fire to burn except in accordance with the following provisions:
- (a) no person shall set any fire unless it is contained in a manner that will control the spread of fire;
 - (b) no person shall set or maintain any fire involving prohibited materials;
 - (c) no person shall set or maintain a fire unless it is under constant watch and control by a responsible party of legal age (minimum of 18 years) from the time of ignition until it is completely extinguished;
 - (d) the responsible party referred to in Clause 3.2 (c) above shall be equipped with sufficient water or tools to contain the fire and must have a means of contacting emergency services in case of an emergency.
 - (e) no person shall set or maintain a fire, with the exception of a "recreational fire", save and except during daylight hours;
 - (f) no person shall set or maintain a recreational fire after 1:00 a.m.;
 - (g) no person shall set or maintain a fire that burns within an area greater than 1.2 metres (approx. 4 feet) in diameter and by 1.2 metres (approx. 4 feet) in height;
 - (h) no person shall set or maintain a recreational fire that burns within an area greater than 0.6 metres (approx. 2 feet) in diameter by 0.6 metres (approx. 2 feet) in height;
 - (i) no person shall set or maintain a fire to burn, with the exception of a recreational fire, without obtaining a permit from the Chief Fire Official;
 - (j) no person shall set or maintain a fire, at a distance of less than 7 metres (22.96 feet) from any building, structure, hedge, fence or a combustible material of any kind;

- (k) no person shall set or maintain any fire on any land or premise without the consent of the owner of such land or premise;
- (l) no person shall set or maintain a fire on any land or premises where construction of a building or structure is ongoing;
- (m) any fire shall forthwith be extinguished when atmospheric conditions cause any of the following:
 - (i) the possible spread of the fire beyond the fireplace unit;
 - (ii) any odour to such an extent or degree so as to cause discomfort to the persons in the immediate areas'
 - (iii) excessive smoke;
 - (iv) the spread of fire or transfer of products of combustion to other materials, land or premise;
 - (v) a decrease in the visibility on any highway, roadway or airfield; or,
 - (vi) any other adverse effect.

3.3 Notwithstanding Clause 3.2 (g) (h) above, a person who is actively involved in the farming of lands, who wishes to set or maintain an agricultural fire may be issued an annual Open Air Burning Permit (Agricultural), as noted in Schedule "B" attached, upon a site inspection and approval by the Chief Fire Official. The Georgina Fire Department must be contacted each day prior to commencing a burn, and to which the permit issuance terms apply.

4. PERMIT ISSUANCE

- 4.1 No person shall conduct or allow to be conducted on lands owned or occupied by such person, any Open Air Burning within the Town of Georgina without first having obtained an annual Open Air Burning Permit issued by the Chief Fire Official in the form attached as Schedule "A" and Schedule "B".
- 4.2 Prior to the issuance of an Open Air Burning Permit, the applicant shall:
 - (a) Pay the fees prescribed in respect of such Open Air Burning Permit by the Town of Georgina's By-law to Establish Fees for Fire Services;
 - (b) Allow the lands upon which an Open Air Burning is proposed to be conducted to be visited by the Chief Fire Official in order to determine the suitability of such lands for an Open Air Burning Permit;
 - (c) Sign the Open Air Burning Permit.

- 4.3 The Chief Fire Official shall be entitled to revoke or deny issuance of any permit for fires that, in his/her opinion, would create a hazard of any type at any time, or for any contraventions to this By-law.
- 4.4 The Chief Fire Official may refuse to allow Open Air Burning when a Fire Ban has been declared, or when, in the opinion of the Chief Fire Official, it is not in the interest of public safety to allow Open Air Burning or the issuance of a permit.
- 4.5 The annual Open Air Permit shall be valid for only the calendar year in which it is issued, therefore expiring each year on December 31st.
- 4.6 The applicant shall agree to contact the Georgina Fire Department each day prior to commencing a burn.

5. OFFENCES

- 5.1 Any person who sets or maintains a fire without a permit, or any person who sets or maintains a fire shall:
 - (a) be liable for all expenses incurred by the Georgina Fire Department including, but not limited to, personnel, equipment, and apparatus costs for extinguishment of said fire in the event of non-compliance with any provision of this By-law, which costs may be recovered by the Town of Georgina in the same manner as municipal taxes all of which is set out in Schedule "A" of our Fees and Charges By-law, which is a By-law to Establish Fire and Emergency Services Fees in the Town of Georgina;
 - (b) be responsible for any damage to property or injury to persons as a result of the said fire.
- 5.2 A conviction for a contravention of any provision of this By-law shall not operate as a bar to prosecution of the same offender for any continued or subsequent contravention of this By-law.
- 5.3 If any court of competent jurisdiction finds any of the provisions of this By-law are ultra vires the jurisdiction of the Council or are invalid for any reason, such provisions shall be deemed to be severable and shall not invalidate any of the other provisions of the By-law which shall remain in full force and effect.
- 5.4 In the event of a contravention of any provision of this By-law, the Town of Georgina, 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.

5.5 Any person in contravention of this By-law is in contravention of the Ontario Fire Code, O.Reg. 213/07, as amended.

5.6 Every person who contravenes any provision of this by-law is guilty of an offence and liable upon conviction to a fine in accordance with the Provincial Offences Act, R.S.O., 1990, c.P.33 as amended for committed.

6. GENERAL PROVISIONS

6.1 The short title of this By-law shall be the "Open Air Burning By-law".

7. ENFORCEMENT

7.1 The provisions of this by-law shall be administered and enforced by the Georgina Fire Department and/or the Finance Department of the Town.

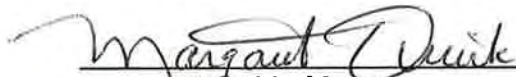
8. REPEAL AND RESCIND

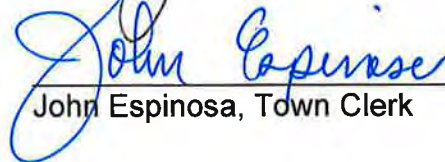
8.1 That By-law No. 2000-0071 (REG-1) is hereby repealed.

9. FORCE AND EFFECT

9.1 The provisions of this By-law shall come into force and effect upon third reading hereof.

READ and enacted this 23rd day of March, 2016.


Margaret Quirk, Mayor


John Espinosa, Town Clerk

SCHEDULE "A" TO BY-LAW NO. 2016-0019 (REG-1)



GEORGINA FIRE DEPARTMENT

165 The Queensway South, Keswick, ON L4P 3S9
 Office: (905) 478-2332/ (905) 478-5187 Fax: (905) 478-7740
 Emergency – Dial 911

OPEN AIR BURNING PERMIT

Permit #:		Expires	December 31st
Applicant Name:		Phone:	
Is the Applicant the owner of the property where the burning is to take place: Yes <input type="checkbox"/> No <input type="checkbox"/> If the Applicant is not the owner of the property has written permission been provided to this Department granting permission to the Applicant? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Address			
Designated Location for Burning			
Materials to be burned Brush <input type="checkbox"/> Wood <input type="checkbox"/> Stumps <input type="checkbox"/> Other _____			
Means of extinguishment available: Water <input type="checkbox"/> Extinguishers <input type="checkbox"/> Equipment <input type="checkbox"/>			
THE APPLICANT HAS REVIEWED THE OPEN AIR BURNING BY-LAW 2016-0019 AND AGREES TO: <ol style="list-style-type: none"> 1. COMPLY WITH ALL OF THE PROVISIONS OF THE BY-LAW 2. ASSUME ALL RESPONSIBILITY FOR ANY DAMAGES AND/OR SERVICE FEES RESULTING FROM THE OPEN AIR BURNING FOR WHICH THIS PERMIT IS ISSUED. 3. RECEIVE APPROVAL TO ACTIVATE THE PERMIT PRIOR TO SETTING A FIRE BY CALLING (905) 476-2332 OR (905) 476-5167. Permits are valid for the calendar year issued. An administration fee is applicable upon issuance of this permit as per the Town of Georgina's current Fire Services Fees and Charges By-law. THIS PERMIT MUST BE AVAILABLE AND ONSITE AT ALL TIMES. Permission is hereby granted to the party to whom this permit is issued or its duly authorized agent(s) to open air burn in accordance with the Town's open-air burning by-law at such time and place as specified on this permit. This permit is for a burning on the location, as specified only, and to the party to whom it is issued, and is not transferable. Any change in the information provided in the permit approval process, as well as listed above requires a new permit. The applicant of this permit acknowledges that the applicant shall indemnify and hold harmless the Town of Georgina and its servants, agents and employees from all damages, actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly by reason of the issuance of this permit.			
Issuance Date		Applicant Signature	
Issuance Date		Chief Fire Official or Designate	

SCHEDULE "B" TO BY-LAW NO. 2016-0019 (REG-1)



GEORGINA FIRE DEPARTMENT

185 The Queensway South, Keswick, ON L4P 3S9
 Office: (905) 478-2332/ (905) 478-5167 Fax: (905) 478-7740
 Emergency – Dial 911

OPEN AIR BURNING PERMIT (AGRICULTURAL)

Permit #:		Expires	December 31st
Applicant Name:		Phone:	
Is the Applicant the owner of the property where the burning is to take place: Yes <input type="checkbox"/> No <input type="checkbox"/> If the Applicant is not the owner of the property has written permission been provided to this Department granting permission to the Applicant? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Address			
Designated Location for Burning			
Materials to be burned Brush <input type="checkbox"/> Wood <input type="checkbox"/> Stumps <input type="checkbox"/> Other _____			
Means of extinguishment available: Water <input type="checkbox"/> Extinguishers <input type="checkbox"/> Equipment <input type="checkbox"/>			
THE APPLICANT HAS REVIEWED THE OPEN AIR BURNING BY-LAW 2016-0019 AND AGREES TO: <ol style="list-style-type: none"> 1. COMPLY WITH ALL OF THE PROVISIONS OF THE BY-LAW 2. ASSUME ALL RESPONSIBILITY FOR ANY DAMAGES AND/OR SERVICE FEES RESULTING FROM THE OPEN AIR BURNING FOR WHICH THIS PERMIT IS ISSUED. 3. RECEIVE APPROVAL TO ACTIVATE THE PERMIT PRIOR TO SETTING A FIRE BY CALLING (905) 476-2332 OR (905) 476-5167. Permits are valid for the calendar year issued. An administration fee is applicable upon issuance of this permit as per the Town of Georgina's current Fire Services Fees and Charges By-law. THIS PERMIT MUST BE AVAILABLE AND ONSITE AT ALL TIMES. Permission is hereby granted to the party to whom this permit is issued or its duly authorized agent(s) to open air burn in accordance with the Town's open-air burning by-law at such time and place as specified on this permit. This permit is for a burning on the location, as specified only, and to the party to whom it is issued, and is not transferable. Any change in the information provided in the permit approval process, as well as listed above requires a new permit. The applicant of this permit acknowledges that the applicant shall indemnify and hold harmless the Town of Georgina and its servants, agents and employees from all damages, actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly by reason of the issuance of this permit.			
Issuance Date	Applicant Signature		
Issuance Date	Chief Fire Official or Designate		