

By-law Number 63-21

of The Corporation of The Township of Scugog

Being a by-law to permit, regulate, prohibit and otherwise control the open air burning within the Township of Scugog.

Whereas the Fire Protection and Prevention Act, S.O. 1997 c.4 subsection 7.1, as amended, provides that the Council of the Corporation of the Township of Scugog may pass a By-Law to permit, regulate, prohibit and control open air burning;

And Whereas the Fire Code (Ontario Regulation 213/07 Article 2.4.4.4. provides that Open Air Burning shall not be permitted unless approved or unless such burning consists of a small, confined fire used to cook food on a grill or a barbecue and supervised at all times.

Now therefore, the Council of The Corporation of the Township of Scugog hereby enacts as follows:

Part 1 – Interpretation,

1. Definitions:

In this By-law:

- (a) “agricultural operation”
means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward and shall include growing, producing or raising:
 - i. livestock, including poultry and ratites;
 - ii. fur-bearing animals;
 - iii. bees;
 - iv. cultured fish;
 - v. deer and elk;
 - vi. game animals and birds, or
 - vii. any additional animals, birds or fish prescribed by the Minister; and
 - viii. the production of agricultural crops, greenhouse crops, maple syrup, mushrooms, nursery stock, tree and turf grass, and any additional agricultural crops prescribed by the Minister; and the production of eggs, cream and milk;
- (b) “applicant” means a person who makes an application for a permit under this by-law and an agent authorized in writing to make such application;
- (c) “approved” means approved by the Chief Fire Official or his/her designate;
- (d) “building” means a structure and includes school, church, residential dwelling, commercial and industrial structures;
- (e) “by-law enforcement officer” means a person appointed by Council under section 15 of the Police Services Act R.S.O. 1990 c.P.15 to enforce the Townships by-laws;

- (f) "burn barrel" means a metal barrel in sound condition no larger than a 45 gallon drum with a heavy duty screen with mesh size not greater than 7 mm over the top to prevent debris from flying out of the barrel. Vent holes must be punched in the side for ventilation, and drainage holes in the bottom and comply with all General Open Air Fire Permit provisions.
- (g) "camping establishment" means a tourist camp, trailer camp or educational camp, which may include trailers, tents, cabins or other buildings, on properties operated lawfully within the Township and Zoned pursuant to the Township of Scugog Zoning By-law 14-14, as amended;
- (h) "Chief Fire Official" shall include a Fire Official, Fire Inspector, an Assistant to the Fire Marshal, a Chief Fire Official and a person designated by the Chief Fire Official to perform the functions of such person;
- (i) "combustible materials" means a material that, in the form in which it is used and under the conditions anticipated, will ignite and burn;
- (j) "cooking fire" means a recreational open air fire that is maintained for the purpose of cooking a meal, where such fire is supervised continually and located under a grill or cook surface that is raised from the fire bed no more than 30 centimeters where a meal is to be cooked;
- (k) "costs" means all expenses incurred by the Township of Scugog for staffing and equipment, used to attend any open air fire and may include an administrative fee;
- (l) "council" means the Council of the Corporation of the Township of Scugog;
- (m) "cubic meter" means combustible material, not including the flames it creates that measures one meter square plus one meter high;
- (n) "farmer" means the owner operator of a registered agriculture operation;
- (o) "FFPPA" Farming Food Production Protection Act;
- (p) "Fire Chief" means the chief or designate of the Township of Scugog Fire and Emergency Service;
- (q) "fire department" means the Township of Scugog Fire and Emergency Service;
- (r) "fire officer" means a member of the Scugog Fire and Emergency Service assigned as a primary response to a fire complaint;
- (s) "fire permit" means a permit issued to a person for the purpose of allowing an open air fire to be burned, issued by the Fire Chief or his/her designate;
- (t) "fire risk rating" means a scale used to inform the public of the risk of fire. Fire risk rating is based on the Fire Weather Index along with fuel type and fuel load. The fire risk ratings include:

Low: means fires may start easily and spread quickly but there will be minimal involvement of deeper fuel layers or larger fuels

Moderate: means forest and wildland fuels are drying and there is an increased risk of surface fires starting. Carry out any forest activities with caution

High: means forest and wildland fuels are very dry and the fire risk is serious. New fires may start easily, burn vigorously, and challenge fire suppression efforts. Extreme caution must be used in any forest activities. Open burning and industrial activities may be restricted; and

Burn Ban: means extremely dry forest and wildland fuels, the fire risk is very serious. New fires will start easily, spread rapidly, and challenge fire suppression efforts. General Burn Ban is in effect;

- (u) "flying lantern" means a small hot air balloon or other device designed to carry open flame as an airborne light, also known as a Sky Lantern, Chinese Lantern, Kongming Lantern or Wish Lantern, or other device which are devices containing a fuel pack, which fuel pack is usually a petroleum or wax based fuel that when lit causes the lantern to rise;
- (v) "hamlet" means lands within the boundaries of Blackstock, Caesarea, Epsom, Greenbank, Manchester, Nestleton, Nestleton Station, Seagrave and Utica as identified on Schedule A of the Official Plan of the Township of Scugog
- (w) "lakefront property" means residential property adjunct to Lake Scugog;
- (x) "normal farming practices"

means one that is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or makes use of innovative technology in a manner consistent with proper advanced farm management practices;
- (y) "open air fire"

means any fire started which has or has not been authorized by issuance of a fire permit under this By-Law or written permission of the Fire Chief or his/her designate. Includes any fire started within a solid fuel-burning appliance such as a wood-burning chiminea. Does not include any fire within an outdoor, gaseous fuel-fired appliance that is listed and labelled for use in Canada and used in accordance with the manufacturer's instructions;
- (z) "owner" includes:
 - i. the registered owner of the property in question as revealed in the Land Registry Office of the Ministry of Consumer and Commercial Relations;
 - ii. any occupant of the property in question with authority to act on behalf of the registered owner;
 - iii. any person authorized in writing by the registered owner to act on his or her behalf;
 - iv. any lessee or occupant of the property, who under the terms of a lease or occupant agreement, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of the property as per the Township and has written authorization from the registered owner; and
 - v. any mortgagor or receiver and manager or trustee in bankruptcy with possession and control of the property;
- (aa) "permit" means a permit issued pursuant to the provisions of this bylaw for the purpose of an open fire.
- (bb) "police officer" means any sworn police officer in and for the Province of Ontario;
- (cc) "Port Perry Urban Area"

means the area as outlined in Schedule A1 of the Official Plan of the Township of Scugog

- (dd) “property” means a building or structure or part of a building or structure, and includes land and premises appurtenant thereto and all mobile homes, mobile buildings, structures, outbuildings, fences, and erections thereon, and includes vacant property;
- (ee) “recreational trailer” means any vehicle constructed to be attached and propelled by a motor vehicle and that is capable of being used by persons living, sleeping or eating, even if the vehicle is jacked-up or its running gear is removed;
- (ff) “residential cluster” means settlement areas of a smaller scale than “hamlets” as identified on Schedule A of the Official Plan of the Township of Scugog;
- (gg) “responsible person” means a person who is competent and is at least eighteen (18) years of age;
- (hh) “tenant” means any person who is not the owner and abides at any property or rents, leases or otherwise exercises control over the property;
- (ii) “Township” means the Township of Scugog;
- (jj) “wood” means wood, brush, trees, and branches but does not include any wood covered or coated with non-wood materials or other coatings; and
- (kk) “wood by-products” means wood or wood product, including tree trunks, tree branches, brush, that do contain chromated copper arsenate, ammoniacal copper arsenate, pentachlorophenol, creosote, pesticides, paint, or any other wood treatment chemical and from which easily removable hardware, fittings and attachments, unless they are predominantly wood or cellulose, have been removed, plywood or composite wood products containing varnish or glue, an upholstered article i.e. couches, or a article to which a rigid surface treatment is affixed or adhered i.e. countertops, unless the rigid surface treatment is predominately wood or cellulose;
- (ll) “yard waste” includes but is not limited to grass, leaves, trees, brush, brush trimmings, spent flowers, garden plants, weeds, pine needles and hay, or any other thing that is normally collected under the Durham Regional yard waste collection program.

Definitions:

2. This By-law shall be known as the “Township of Scugog – Open Air Burning By-law” and will be referred to herein as the “By-law”.
3. This By-law applies to all property within the geographic limits of the Township and to the setting of open air fires on any such property.
4. The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
5. Reference to laws in this By-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.
6. If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law shall be considered to be severed from the balance of the By-law, which shall continue to operate in full force and effect.

PART 2 – RESTRICTIONS-----.

General

7. No fires are permitted during the annual spring burn ban.
8. No fires are permitted during Provincial or Township burn bans. The Fire Risk Rating Scale shall be used to determine Township burn bans.
9. No person shall cause or permit, conduct or engage in any Recreational Burning in the Township between the hours of 12:00 a.m. and 4:00 p.m. each and every day.
10. No Special General, Oversize or Agricultural burning shall be started earlier than one-half hour before sunrise and must be extinguished one-half hour before sunset.
11. No fires are permitted on urban commercial properties, industrial properties and salvage yards.
12. No fires are permitted on land or premises where multi-unit residential construction, commercial construction or industrial construction is ongoing.
13. No fires are permitted between the hours of 12:00 a.m. and 8:00 a.m.
14. No person shall set an open air fire or allow an open air fire be set without a Permit.
15. No person shall set an open air fire or allow an open air fire to be set which does not comply with all of the conditions of a Permit.
16. No person shall set an open air fire along fence lines.
17. No person shall burn any material that is normally collected under the Municipality's garbage, blue box or yard waste collection programs.
18. No person shall ignite or release an ignited Flying Lantern.
19. No person shall offer for sale, cause or permit to be sold, or sell any Flying Lanterns.
20. No person shall burn petroleum products, plastic, rubber, household garbage, building material, demolition material or wood by-products.
21. No person shall burn material that may create toxic smoke, excessive smoke or excessive odor.
22. No fire shall be set in weather conditions that could create a fire hazard;
23. No person shall set or cause to be set or permit to be set an open air fire:
 - a. Under weather conditions that limit the rapid dissipation of smoke.
 - b. When wind may cause unsafe conditions that may result in fire spread.
 - c. Under extremely dry or arid conditions.
 - d. When the Ministry of the Environment has issued a Smog Advisory or Smog Alert applicable to the area.

- e. When the Fire Chief has placed a ban on open fires.
24. Burning will not violate the Environmental Protection Act, the Pesticides Act and the Ontario Water Resources Act.

Exceptions

25. As permitted under the Ontario Fire Code.
26. The Fire Chief may approve other open air fires for special occasions with any appropriate restrictions stipulated at the time of the approval.
27. No Permit is required where a fire is set by Scugog Fire and Emergency Services for the purpose of extinguishing any fire or for the purposes of training.
28. No permit is required for individual camp sites for Recreational Open Air Fires on properties operated lawfully within the Township as a Camping Establishment and such Recreational Open Air Fires may be situated on individual Camping Lots under the following conditions:
- a. the property owner of such a Camping Establishment must obtain a Specialty Fire Permit. The fee for a Specialty Fire Permit for a Camping Establishment shall be the same as the fee for an Oversize Fire Permit as outlined in the Fees and Charges By-Law;
 - b. every Recreational Open Air Fire shall be located on a camping lot and shall be a minimum of two (2) meters from any structure, trailer, tent, flammable source, other structures, fences, trees, brush piles or combustible materials of any nature whatsoever that could be ignited by flame, sparks or heat radiating from the said fire;
 - c. every person setting a Recreational Open Air Fire complies with Recreational Open Air Fire Conditions and General Restrictions 7, 8, 11, 15, 19, 20, 21, 22 and 23;
 - d. the Owner of any Camping Establishment shall maintain a Hazard Index Rating sign at the Camping Establishment which shall be set to the hazard as indicated by the Township of Scugog Fire and Emergency Services; and
 - e. the Owner or any person authorized by the Owner of any Camping Establishment may remove the authorization of any tenant from setting Recreational Open Air Fires.
 - f. the Camping Establishment may authorize Recreational size open air fires between the hours of 12:00 a.m. and 4:00 p.m. in accordance with their park rules.
 - g. Recreational Open Air Fire Permits are permitted on single family residential water front properties including in Port Perry, so long as the Recreational Open Air Fire Permit Provisions are adhered to.
29. Open Air Fires used for cooking purposes in the form of barbeques, hibachis, permanent structures designed and intended solely for the cooking of food in the open air and other similar devices (i.e., a wood smoker) are exempt from the By-law.

PART 3 – PERMITS

Permit Applications

30. Any person wishing to set an open air fire shall make application to the Fire and Emergency Services Department of the Township to obtain an open air burning permit.
31. Only the owner of the property on which a fire is proposed to be set, or an authorized representative of such owner, may apply for a permit.
32. Every Permit application shall,
 - a. provide the name, address, email address and telephone number of the applicant and any person who will be responsible for tending the fire;
 - b. describe the property on which the fire is proposed to be set and the proposed location for the fire;
 - c. be accompanied by the fee prescribed for a Permit; and
 - d. include such other information as the Fire Chief may require to properly assess the application.

General Provisions

33. Open Air Fire Permit may be issued where the applicant can satisfy the Fire Chief or designated person to issue such Permits that any such fire to be set shall comply with the provisions of this By-law and Guidelines for Open Air Fires. See Schedule "A" Guidelines for Open Air Fires.
34. General open air fire permit general conditions may include:
 - a. requiring that the fire be or not be in a specific location;
 - b. requiring fire suppression equipment;
 - c. specifying the method to be followed to extinguish the fire; and
 - d. relating to any other factors which the Fire Chief reasonably considers to be necessary to ensure that the fire is made and extinguished safely.
35. All Open Air Fire Permits expire at 11:59 p.m. on the 31st day of December of the year the permit was issued, unless permit holders are otherwise informed of an extension.

General Open Air Fire Permit Provisions

36. The Fire Chief may approve or refuse any Permit application, and may impose any conditions upon an approval as he/she determines to be appropriate.
37. General Open Air Fire Permits will not be issued to properties located within the Port Perry Urban area, a hamlet or a residential cluster..
38. Unless specifically provided otherwise, every Open Air Permit shall be subject to the following conditions:
 - a. No fire shall cause smoke damage or fire damage to any property;

- b. No fire shall decrease visibility or create a hazard on any public or private roadway;
- c. Material must be burned in a single pile that is less than 1 metre in diameter and less than 1 metre high or in a burn barrel;
- d. The fire shall be a minimum of fifteen (15) meters from any structure, trailer, tent, flammable source, overhead wire, fence lines, trees, brush piles, property lines or combustible material of any nature whatsoever that could be ignited by flame, sparks or heat radiating from the said fire;
- e. All flammable vegetation or materials within a 15 metre radius of the fire shall be cleared;
- f. The person to whom the permit is issued or another responsible adult identified in the Permit shall tend to the fire until it is extinguished;
- g. No fire shall be started earlier than one-half hour before sunrise and must be extinguished one-half hour before sunset; and
- h. No other Provincial or Township burn bans are in effect.

Recreational Open Air Fire Permit Provisions

39. The Fire Chief may approve or refuse any Recreational Permit application, and may impose any conditions upon approval as he/she determines to be appropriate.
40. Unless specifically provided otherwise, every Recreational Open Air Permit shall be subject to the following conditions:
- a. The fire area is no larger than sixty (60) centimeters in diameter;
 - b. The fire area is supervised at all times by a responsible person;
 - c. The fire area is within an approved area;
 - d. The fire is contained in a closed wood stove, small enclosed appliance or pit designed for recreational open air fires;
 - e. The fire is only used for recreational open air fires;
 - f. The fire area does not violate any other laws, by-laws, rules or regulations including rules or regulations passed by any competent authority or otherwise set out in this By-law;
 - g. The fire shall be a minimum of five (5) meters from any structure, trailer, tent, flammable source, overhead wire, fence lines, trees, brush piles, property lines or combustible material of any nature whatsoever that could be ignited by flame, sparks or heat radiating from the said fire;
 - h. The fire is only permitted between the hours of 4:00 p.m. and 12:00 a.m. (midnight) and
 - i. No other Provincial or Township burn bans are in effect.

Oversize Open Air Fire Permit Provisions

41. The Fire Chief may approve or refuse any Permit application, and may impose any conditions upon an approval as he/she determines to be appropriate.

42. Unless specifically provided otherwise, every Oversize Permit shall be subject to the following conditions:

- a. No fire shall cause smoke damage or fire damage to any property;
- b. No fire shall decrease visibility or create a hazard on any public or private roadway;
- c. Material must be burned in one pile that is less than 25 metres square and less than 5 metres high;
- d. The fire shall be a minimum of thirty (30) meters from any structure, trailer, tent, flammable source, overhead wire, fence lines, trees, brush piles, property lines or combustible material of any nature whatsoever that could be ignited by flame, sparks or heat radiating from the said fire;
- e. All flammable vegetation or materials within a 30 metre radius of the fire shall be cleared;
- f. The person to whom the Permit is issued or another responsible person identified in the Permit shall tend to the fire until it is extinguished;
- g. No fire shall be started earlier than one-half hour before sunrise and must be extinguished one-half hour before sunset; and
- h. No other Provincial or Township burn bans are in effect.

43. Notwithstanding line 41 and 42, an oversize open air fire may be permitted at the discretion of the Fire Chief, where such open air fire is to be located on lands that are a minimum of ten (10) acres in size, and the applicant has entered into a written agreement with the Fire Chief. Any such written agreement entered into with the Fire Chief, may contain special instructions and conditions set out by the Fire Chief that shall be adhered to by the applicant or any other person setting, tending or otherwise exercising control over any fire.

Farming Open Air Permit Provisions

44. The Fire Chief may approve or refuse any Farming Open Air Permit application, and may impose any conditions upon approval as he/she determines to be appropriate.

45. Unless specifically stated otherwise, every Farming Open Air Permit shall be subject to the following conditions:

- a. The applicant must possess farm business registration number;
- b. Any burning will not violate the Environmental Protection Act, the Pesticides Act and the Ontario Water Resources Act;
- c. Any burning must fall within accepted "normal farming practices";
- d. No fire shall cause smoke damage or fire damage to any property;
- e. No fire shall decrease visibility or create a hazard on any public or private

roadway;

f. The person to whom the Permit is issued or another responsible person identified in the Permit shall tend to the fire until it is extinguished;

g. No fire shall be started earlier than one-half hour before sunrise and must be extinguished one-half hour before sunset; and

h. No other Township or Provincial burn bans are in effect.

Specialty Permit

46. The Fire Chief may approve or refuse any Speciality Permit application, and may impose any conditions including Permit Fee upon approval as he/she determines to be appropriate.

Revocation of Permit

47. The Fire Chief may revoke a Permit if:

a. the Permit was issued in error;

b. any condition contained in the Permit is not being complied with;

c. the Permit was issued as the result of false, mistaken, incorrect or misleading statements, information or undertakings in the application; and

d. If a Permit is revoked for a reason set out in section 4247 (b) or (c), the application fee shall not be returned to the applicant.

A Permit may be permanently revoked by the Fire Chief if deemed necessary. Such reasons may include cases of arson, willful neglect, and serious environmental concerns.

Open Air Fire Burn Ban

48. Notification of a suspension or prohibition for setting a fire may be made by personal contact to any person, a notice in any local newspaper, radio, television, or other media.

PART 4 – ENFORCEMENT AND PENALTIES

Enforcement

49. This By-law may be enforced by every Municipal Law Enforcement Officer, Police Officer, Chief Fire Official or Fire Officer.

Obstruction

50. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.

Inspections

51. (1)A Police Officer, By-law Enforcement Officer or Chief Fire Official or designate may, at any reasonable time, enter upon any property for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law have been complied with.

(2) No person shall prevent hinder or interfere or attempt to prevent hinder or interfere with an inspection undertaken by a Police Officer, By-law Enforcement Officer, Chief Fire Official or Fire Officer.

Acts or Omissions

52. No action or other proceedings for damages lies or shall be instituted against the Fire Chief, his/her designate or a Municipal Law Enforcement Officer of the Township for an act or omission by him/her in good faith in the execution of any power or duty under this By-law.

Offence and Penalty

53. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S. O. 1990, c. P. 33. and to any other applicable penalty.

54. Any person who knowingly, repeatedly or spitefully causes a response from the Fire Department upon any person having an open air fire legally under this By-law is in contravention of the Bylaw and may be liable for costs incurred by the Fire Department, including the costs of the personnel and equipment as authorized and set out in the Fees and Charges By-law in effect at the time of the incident and authorized by the Fire Chief or his or her designate.

55. Any person who sets an open air fire in the Township assumes full responsibility for fire control and may be liable for costs incurred by the Fire Department, including the costs of the personnel and equipment as authorized and set out in the Fees and Charges By-law in effect at the time of the incident and authorized by the Fire Chief or his or her designate.

Court Order

56. If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Cost Recovery

57. Any person found to be in contravention of the By-law may be subject to all costs associated with the work.

58. The costs may be collected through invoice and/or may be added to the tax roll of the property to which the offence occurred, and shall be collected in the same manner as municipal taxes pursuant to the Municipal Act 2001, c. 25, s. 398 (2).

PART 5 - GENERAL

Short Title

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

Repeal

60. By-law No. 81-19 is repealed.

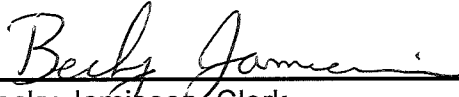
Effective Date

61. This by-law shall be effective on the date that it is passed.

This By-law Read and Passed on the 20th day of December, 2021.



Roberta Drew, Mayor



Becky Jameson, Clerk