



**THE CORPORATION OF THE CITY OF MISSISSAUGA
OPEN AIR BURNING
BY-LAW 140-18**

WHEREAS Council of The Corporation of the City of Mississauga (“Council”) is empowered under section 7.1(1) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended, (the “FPPA”) to pass by-laws regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS Council is empowered under section 7.1(1) of the FPPA to pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Council is empowered under section 7.1(4) of the FPPA to appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND WHEREAS Council is empowered under section 11(2) of the *Municipal Act, 2001, c. 25* to pass by-laws respecting the environmental well-being of the municipality, the health, safety, and well-being of persons, and the protection of persons and property;

AND WHEREAS Council is empowered under section 128 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, to pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are, or could become or cause public nuisances;

AND WHEREAS Council considers excessive smoke, smell, airborne sparks or embers to be or could become or cause public nuisances by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighbouring properties and generating false fire alarms;

NOW THEREFORE, the Council of The Corporation of the City of Mississauga ENACTS as follows:

PART I

DEFINITIONS

1. In this By-law,

“**City**” means The Corporation of the City of Mississauga;

“**Cooking Fire**” means an Open Air fire used for the purpose of cooking food on a grill but does not include a manufactured barbeque.

“Fire Chief” means the Chief of the Fire and Emergency Services Division of the City, or his or her designate.

“Firefighter” means the Fire Chief and any other person employed in, or appointed to, the Fire and Emergency Services Division of the City, and assigned to undertake fire protection services.

“Ground Cover” includes but is not limited to, leaves, grasses, weeds, tree needles or wood chips on the ground.

“Nuisance” means excessive smoke, smell, airborne sparks, ash, particulate matter, or embers that is likely to disturb others.

“Officer” means any Firefighter, any municipal law enforcement officer appointed by the City, and any member of the Peel Regional Police.

“Open Air” means any open place, yard, field or construction area which is not enclosed by a building or structure.

“Open Air Burning” means a fire set in the Open Air.

“Outdoor Appliance” means a manufactured non-combustible solid fuel burning device that:

- (a) is not contained within a building;
- (b) is wholly or partly enclosed; and
- (c) has a chamber intended to contain combustion, and may include a stack to direct the flow of air or combustion gases from the appliance and may include, but is not limited to, appliances such as stoves, furnaces, boilers, fireplace inserts, smokers or ovens.

“Outdoor Fireplace” means a manufactured non-combustible, wholly-enclosed or partially-enclosed container designed to hold a small fire for decorative purposes and the size of which is not larger than 1 meter in any direction, and may include, but is not limited to, chimineas, and which is not fueled by natural gas or propane.

“Outdoor Fire Pit” means a manufactured or non-manufactured, non-combustible, contained pit that is not fueled by natural gas or propane and is designed to hold a small fire for decorative purposes and the size of which is not larger than 1 meter in any direction.

“Owner” means the registered owner or any person, firm or corporation having control over, or possession, of any portion of the building or property under consideration and includes the persons in the building or property.

“Permit” means a permit issued by the Fire Chief to set a fire in the Open Air for a specified time period.

“Person” means an individual, business, a partnership, or a corporation.

“Smog Alert” means an alert issued by the Ministry of Environment with respect to air quality.

“**Smoke House**” means a fixed structure designed to hold a small fire to cook or cure food with smoke.

ADMINISTRATION

2. The Fire Chief shall be responsible for the administration and enforcement of this By-law.

ENVIRONMENT

3. All Open Air Burning shall comply with the provisions of the *Environmental Protection Act*, R.S.O. 1990, c.E.19, as amended.
4. No Open Air Burning shall be permitted when a Smog Alert has been issued for the forecast region of Halton-Peel, which includes the City of Mississauga.

PART II

FIRES REQUIRING PERMITS

5. Except as provided in Part III of this By-law, no person shall set, maintain, or cause to be set or maintained, a fire in the Open Air unless a Permit has been issued by the Fire Chief.
6.
 - (1) An application for a Permit must be completed on the forms provided by the Fire and Emergency Services Division of the City.
 - (2) Each completed application for a Permit must be submitted to the Fire and Emergency Services Division of the City and accompanied by the appropriate fees as set out in the applicable City of Mississauga Fees and Charges By-law.
7.
 - (1) Except as otherwise provided in the Permit issued under this Part, a Permit holder shall not set or maintain Open Air Burning, or cause Open Air Burning to be set or maintained:
 - (a) between sunset and sunrise;
 - (b) at a distance of less than fifty (50) meters from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article;
 - (c) if the wind velocity is greater than twenty four (24) kilometers per hour;
 - (d) that exceeds one square meter in area;
 - (e) that exceeds one meter in height;
 - (f) within five (5) meters of any combustible ground cover;
 - (g) without a fire extinguisher, operable garden hose, or other suitable means of extinguishment available; or
 - (h) if it creates a Nuisance.

- (2) In issuing a Permit under this Part for Open Air Burning, the Fire Chief may impose any additional requirements or exempt any conditions under section 8 of this By-law as the Fire Chief considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances, or to give effect to the objects of this By-law.

8. The holder of a Permit issued under this Part shall:

- (1) maintain constant watch and control over the Open Air Burning from the time of the setting of the fire until the fire is totally extinguished; and
- (2) produce the Permit on demand to an Officer conducting an inspection of Open Air Burning.

PART III

OUTDOOR FIREPLACES, OUTDOOR APPLIANCES, OUTDOOR FIRE PITS, SMOKE HOUSES

9. (1) An Outdoor Fireplace, Outdoor Appliance, Outdoor Fire Pit or Smoke House may be operated without a Permit between sunrise and 11 p.m. if:
 - (a) it is located at a distance of not less than five (5) meters between such Outdoor Fireplace, Outdoor Appliance, Outdoor Fire Pit, or Smoke House and any building, structure, property line, tree, hedge, fence, roadway, overhead wire, or other combustible article;
 - (b) it is located on a non-combustible surface extending beyond the unit to a dimension equal to the height of the unit;
 - (c) the size of the combustion area of the Outdoor Fireplace, Outdoor Appliance, Outdoor Fire Pit or Smoke House is not larger than 1 meter (3.2 feet) in any direction;
 - (d) it does not create a Nuisance;
 - (e) a portable fire extinguisher or operable garden hose is available while the unit is in operation; and
 - (f) the Owner or person otherwise overseeing the Outdoor Fireplace, Outdoor Appliance, Outdoor Fire Pit, or Smoke House maintains constant watch and control over the fire from the time of the setting of the fire until the fire is totally extinguished.

COOKING FIRES

10. (1) A person may set or cause to be set or maintained a Cooking Fire without obtaining a Permit between sunrise and 11 p.m., provided that:
 - (a) the fire is not more than 0.3 meters by 0.3 meters in size and not more than 0.3 meters in height;
 - (b) the fire is located at a distance of not less than five (5) meters between the fire and any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article;

- (c) the wind velocity is not greater than twenty four (24) kilometers per hour;
- (d) there is no combustible ground cover within five (5) meters of the fire;
- (e) the fire does not create a Nuisance;
- (f) a fire extinguisher, operable garden hose, or suitable means of extinguishment is available while the fire is burning; and
- (g) the Owner or person setting the Cooking Fire maintains constant watch and control over the Cooking Fire from the time of the setting of the fire until the fire is totally extinguished.

PART IV

ENFORCEMENT

- 11. (1) A person is guilty of an offence if the person:
 - (a) furnishes false information in an application for a Permit under this By-law;
 - (b) contravenes any provision of this By-law; or
 - (c) contravenes an order issued under section 15.
- (2) A person who is convicted of an offence under this by-law is liable to a fine and penalty as pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c.P.33.
- 12. A Permit issued under this By-law may be revoked by an Officer if the Permit holder fails to comply with the requirements of the Permit or any other provision of this By-law.
- 13. In accordance with section 7.1 of the FPPA, an Officer may enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether this by-law is being complied with.
- 14. For the purposes of an inspection pursuant to s. 13 above, an Officer may:
 - (1) require the production for inspection of documents or things relevant to the inspection;
 - (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (3) require information from any person concerning a matter related to the inspection; and
 - (4) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection

15. An Officer may order a fire to be extinguished immediately if the fire:
- (1) is not set in compliance with this By-law;
 - (2) is determined upon inspection by the Officer to constitute a safety hazard or concern; or
 - (3) is not set in compliance with a Permit.

VALIDITY

16. If a court of competent jurisdiction declares any provision or a part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council that the remainder of the By-law shall continue to be in force.

SHORT TITLE

17. This By-law shall be known as the Open Air Burning By-law.

REPEAL

18. (1) City of Mississauga By-law 49-03, as amended, is repealed.
- (2) Notwithstanding subsection (1), all permits issued pursuant to By-law 49-03, as amended, shall remain in full force and effect during the period for which they have been issued, unless the permit is revoked, forfeited, or suspended for any reason aside from the repeal of By-law 49-03.
- (3) Any penalty incurred, any investigation, legal proceeding or remedy under By-law 49-03, as amended, may be continued to be enforced as if By-law 49-03 as amended, had not been repealed.

ENACTED AND PASSED this 4TH day of July, 2018.

Signed by: Bonnie Crombie, Mayor and Diana Rusnov, City Clerk