

## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2009-64

#### A BY-LAW TO REGULATE OUTDOOR BURNING.

WHEREAS it is deemed advisable to regulate by By-law the setting and burning of outdoor fires for the fire protection of persons and property;

AND WHEREAS Section 11(2) of the *Municipal Act, 2001* authorizes municipalities to pass by-laws respecting the health, safety and well-being of persons and respecting the protection of persons and property;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

#### Definitions

1. In this By-law:
  - (a) "Appliance" means a device to convert fuel into energy, and includes all components, controls, wiring and piping;
  - (b) "Approved" means approved by the Chief Fire Official;
  - (c) "Fire Official" means the Fire Chief, Chief Fire Prevention Officer, Fire Prevention Officer, Fire Prevention Inspector, Captain or Firefighter of Central York Fire Services;
  - (d) "Fire" means the burning or combustion of materials in the open air;
  - (e) "Permitted Outdoor Fires" means:
    - Small, confined fires, supervised at all times and used to cook food on a grill or a barbecue;
    - An appliance that is in conformance with the *Technical Standards and Safety Act, 2000*, that is for outdoor use and is installed in accordance with the manufacturer's instruction
    - Any fire entirely contained in an appliance designed, constructed or manufactured for the purpose of cooking food for consumption;
    - Candles and other manufactured appliances designed for illumination or the suppression of insects;
  - (f) "Person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
  - (g) "Town" means the Town of Newmarket.

#### Scope:

2. The provisions of this By-law shall apply to all lands and premises within the Town of Newmarket.

#### Prohibition Against Outdoor Fires:

3. Other than as permitted under the Ontario Fire Code and defined in Section 1 as "Permitted Outdoor Fires", no person shall set a fire or allow a fire to burn outdoors except in accordance with the provisions of this by-law as set out in the Regulations applicable to outdoor fires below and all other applicable provincial, municipal and federal laws and regulations.

**Regulations Applicable to Outdoor Fires:**

4. No Person or owner of a property shall:
- (a) Start or allow to burn a fire during a fire ban as issued by the Fire Chief;
  - (b) Start or allow to burn a fire on commercial or industrial properties;
  - (c) Start or allow to burn a Fire between the hours of 11 p.m. and 8 a.m.
  - (d) Start or allow to burn a fire except in a container, apparatus or physical construct that is capable of controlling the spread of the Fire;
  - (e) Start or allow a fire to burn in a manufactured appliance, such as those devices commonly referred to as "chimineas", unless the material being burnt is of such limited quantity that it fits well within the confines of the appliance and the appliance is not on a combustible surface, including a wooden deck;
  - (f) Burn any of the following materials: automobile and truck bodies, tires, oil, grease, paint, cloth, rags and plastics, animal husbandry refuse, such as animal fecal deposits or manure and animal carcasses, domestic waste such as food scraps, cloth, rags, clothing and household plastics, flammable or combustible liquids or accelerants and wood products that have been painted or otherwise treated;
  - (g) Burn any material that is normally collected under the Municipality's garbage, blue box or yard waste collection programs.
  - (h) Start or allow to burn a fire larger in diameter than 0.75 metres and no more than one (1) metre in height, including flame height;
  - (i) Start or allow to burn a fire unless it is four (4) metres from the edge of the container, apparatus or physical construct to any lot line, building, structure, deck, hedge, tree, fence, vehicular right of way or overhead wire;
  - (j) Start or allow to burn a fire unless a responsible person of at least eighteen (18) years of age is present at all times that a fire is burning.
  - (k) Start or allow to burn a fire unless a garden hose is located in close proximity to the Fire with the hose valve opened to facilitate quick and thorough extinguishment of the fire;
  - (l) Start or allow to burn a fire on any land or premises where construction of a building or structure is ongoing;
  - (m) Start or allow a fire to burn when the direction or intensity of the wind may cause the uncontrolled spread of the fire to other combustible materials, including grass and brush.

**Exemptions:**

5. The Fire Chief may approve other outdoor fires for special occasions on municipal property with any appropriate restrictions stipulated at the time of the approval.

**Compliance:**

6. For the purposes of this by-law, the following person shall be appointed officers authorized to enter upon lands and into structures at any reasonable time to conduct inspections and determine whether or not the provisions of this by-law are being complied with:

- (a) Fire Chief
- (b) Chief Fire Prevention Officer
- (c) Fire Prevention Officer
- (d) Fire Prevention Inspector

- (e) Captain
- (f) Firefighter, or
- (g) Any officer or agent of Central York Fire Services

7. Where an inspection is conducted pursuant to the provisions of this by-law, the person conducting the inspection may:

- (a) Require the production for inspection of documents or things relevant to the inspection;
- (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) Require information from any person concerning a matter related to the inspection including their name, address, phone number and identification; and
- (d) 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.

8. These powers are in addition to, and do not abrogate from, any other powers of the Town, Central York Fire Services, their employees, agents or servants or any other law enforcement authority under the provisions of any legislation, regulations or by-laws.

9. Central York Fire Services will respond to calls complaining of outdoor fires that do not comply with the provisions of this by-law. If it is determined by Central York Fire Services that any outdoor burning taking place at a property is not in accordance with this by-law, the person responsible for the fire will be directed to extinguish it or it will be extinguished by Central York Fire Services.

10. Where Central York Fire Services responds to a complaint of an outdoor fire not in compliance with this by-law, Central York Fire Services may charge the cost of responding to such fire, including the costs of personnel, equipment and apparatus required to respond to such fire, at the person's or property owner's expense. The Town may recover the costs of responding to a fire by adding the costs to the tax roll of the owner of the property where the fire was located, and collecting those costs in the same manner as property taxes.

11. This By-law shall be administered and enforced by the Chief Fire Official.

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

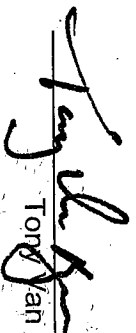
**Repeal:**


13. By-law Number 1994-20 is hereby repealed.

**Short Title:**

14. The short title of this by-law shall be the "Outdoor Burning By-law".

ENACTED THIS 22ND DAY OF JUNE, 2009.

  
Tony Van Bynen, Mayor

  
Anita Moore, Town Clerk