

THE CORPORATION OF THE MUNICIPALITY OF ST-CHARLES

BY-LAW 2022-38

BEING A BY-LAW TO ESTABLISH OPEN-AIR BURNING PROCEDURES AND PRESCRIBING TIMES FOR SETTING FIRES, PRECAUTIONS TO BE TAKEN AND FOR ISSUING PERMITS FOR BURNING

WHEREAS Section 7.1 of the *Fire Protection and Prevention Act*, S.O. 1997, c.4, as amended, provides that a municipality may pass By-Laws regulating fire prevention, including the prevention of the spreading of fires and the setting of open-air fires; including establishing the times during which open air fires may be set;

AND WHEREAS Section 391(1) of the *Municipal Act*, S.O. 2001, c. 25, as amended provides that a municipality may pass By-Laws imposing fees or charges on any class or persons for services or activities provided or done by or on behalf of it;

AND WHEREAS the *Ontario Fire Code*, Part 2 Section 2.6, Article 2.6.3.4. states 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 barbeque;

NOW THEREFORE the Council for the Corporation of the Municipality of St.-Charles hereby enacts as follows:

SECTION 1 SHORT TITLE

1.1 This By-Law shall be known as the **“Open-Air Burning By-Law”**.

SECTION 2 DEFINITIONS

2.1 **AGRICULTURAL WASTE** shall include any animal fecal deposits or manure, and animal carcasses;

2.2 **APPROVED** means as approved by the Fire Chief or designate;

2.3 **BRUSH** means trees, branches, stumps and roots.

2.4 **CAMPFIRE** means a small, contained fire that is supervised at all times and

used for the preparation of food and/or to provide warmth;

2.5 **DISCHARGE** means firing, igniting, exploding, and setting off fireworks.

2.6 **DOMESTIC WASTE** shall include but will not be limited to kitchen waste, food, scraps, cloth, rags, clothing, plastics and any other materials which contents include any of the aforementioned;

2.7 **FIRE** means a fire that would require a permit since it is not being used solely for warmth or the preparation of food;

2.8 **FIRE BAN** means a complete or partial ban of any fire as declared by the Fire Chief.

2.9 **FIRE CHIEF** means the person appointed by the Council of Corporation of the Municipality of St.- Charles as the Chief of the Municipality of St.-Charles Fire Department, and/or his designate;

2.10 **FIRECRAKER** means a pyrotechnic that explodes when ignited and does not make any subsequent display or visible effect after the explosion but does not include paper caps containing less than 25/100 of a grain of explosives on average per cap, devices for use of such caps, safety flares or marine rockets.

2.11 **FIRE DEPARTMENT** means the Fire Department of the Municipality of St.- Charles;

2.12 **FIRE PIT** means a container, apparatus or physical construct that is capable of controlling the spread of a fire;

2.13 **FIRE SEASON** means the period of time allotted by the municipality where an Open-Air Burning Permit is required;

2.14 **FIREWORKS** mean the display fireworks, family fireworks, theatrical fireworks, and prohibited fireworks.

2.14.1 **Display Fireworks** means high-hazard fireworks for recreation that are classified Class 7, Division 2, Subdivision 1 under the *Explosive Act*, as amended. The explosives regulations made thereunder, and includes, but are not limited to, rockets, serpents, shells, bombshells, tourbillion,

maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and kitchens.

2.14.2 **Family Fireworks** means low-hazard fireworks for recreation that are classified under Class 7, Division 2, Subdivision 2 of the *Explosives Act*, as amended, and the explosives regulations made under, and includes but is not limited to, firework showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers and other similar devices, but does not include Christmas crackers, and paper containing not more than 25/100 grain of explosives on average per cap, devices for use with such caps, safety flares or marine rockets.

2.14.3 **Prohibited Fireworks** includes but is not limited to firecrackers, cigarette loads or kings, exploding matches, sparkling matches, ammunition for miniature tie clip, cuff link, or keychain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers; throw down and step on torpedoes, and crackling balls; exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky-rockets, fake firecrackers and other trick devices or practical jokes, as included in the list of Prohibited Fireworks as published from time to time under the *Explosives Act*.

2.14.4 **Theatrical Fireworks** means an authorized explosive of a class set out in Section 6 of the Explosives Act, Explosives Regulations (C.R.C. c. 599), that is made, manufactured or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theatre or television production or as a performance before a live audience.

2.15 **GRASS** means dry, dead, fine herbaceous material made up of different grasses, weeds, agricultural crops, leaves;

2.16 **HIGHWAY** means and includes a common and public highway, street, roadway, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for use by the general public;

2.17 **HOUSEHOLD HAZARDOUS WASTE** means waste generated from a dwelling and designated by the Municipality as acceptable at a household hazardous waste depot and includes, but is not limited to:

2.17.1 corrosive wastes including batteries, drain cleaners and oven cleaners;

- 2.17.2 toxic wastes including pesticides, poisons, pharmaceuticals and cleaning fluids;
- 2.17.3 reactive wastes including pool chemicals, ammonia, bleach and aerosols;
- 2.17.4 flammable wastes including paints, solvents, oils, varnishes, stains and preservatives, wood protector and polish, epoxies, rust removers, fire extinguishers, cements, glues, transmission fluid, brake fluid, engine coolant, motor oil and filters, propane tanks and cylinders, gasoline, kerosene and butane lighters;
- 2.17.5 fluorescent tubes and thermometers;
- 2.17.6 fertilizers, weed and bug killers; or,
- 2.17.7 distillates.

2.18 **INCINERATOR** means an enclosed device used to burn approved refuse as detailed in Schedule "B" of this By-Law;

2.19 **INDUSTRIAL WASTE** shall include but not be limited to used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics, explosives and any part thereof or other material which contents include any of the aforementioned;

2.20 **MUNICIPAL LAW ENFORCEMENT OFFICER** means the officer in charge of the By-Law Enforcement of the Corporation of the Municipality of St.-Charles or his or her authorized subordinates or assistants;

2.21 **MUNICIPALITY** means the Corporation of the Municipality of St.-Charles;

2.22 **NUISANCE** means the use of property or course of conduct that interferes with the rights of others by causing damage, inconvenience or annoyance, or something that causes harm, offence, or adverse effect, either to people in general or to a private individual. This may include excessive smoke, odour or sparking.

2.23 **OFFICER** means a Municipal Law Enforcement Officer (MLEO), a building inspector, a fire prevention officer, a fire fighter, a health inspector, a weed inspector appointed under the *Weed Control Act*, as amended, or any other person appointed or employed by the municipality for the enforcement of By-Laws and includes a peace officer;

2.24 **OPEN AIR BURNING** means any outdoor fire either burned in a container or on the ground, including a campfire but does not include a Permanent or Portable stove. Open burning activities are regulated by the *Fire Code* and open burning is also regulated by this Municipal By-Law and enforced locally by the St.-Charles Fire Department;

2.25 **PERMANENT OR PORTABLE STOVE** means a commercially manufactured permanent or portable device used for the preparation of food and / or for warmth;

2.26 **PERMIT** means a permit issued pursuant to the terms of this By-Law;

2.27 **PERMITEE** means any person at least eighteen (18) years of age, who has been lawfully issued an Open-Air Burning Permit by the Municipality of St.-Charles;

2.28 **PERSON** means an owner, applicant, tenant or anyone over 18 years old and shall include any individual, corporation, partnership, company, association or party and the heirs, executors, administrators, or other legal representative of such person, to whom the context can apply according to law, shall include any group of persons comprising a society or other organization and shall include the plural wherein the context requires;

2.29 **RESTRICTED FIRE ZONE** means an order made by the Ministry of Natural Resources and Forestry (MNR) under the *Forest Fire Prevention Act*, as amended, that restricts the use of open fires in a specific area of the Province;

2.30 **WINDROW** means a pile or row of material made up of stumps, brush, limbs, earth and rock resulting from land clearing or industrial forest operations using mechanical equipment.

SECTION 3 JURISDICTION

3.1 This By-Law shall apply to all land within the geographical limits of the Municipality of St.-Charles.

SECTION 4 EXEMPTIONS

4.1 A fire wholly contained within a permanent or portable stove that follows all of the provisions of Section 5 shall not be deemed to be a fire for the purposes of this By-Law.

4.2 A campfire does not require an Open-Air Burning Permit, but it must follow the restrictions outlined in Section 5.

4.3 The Fire Department shall be exempt from the provision of this By-Law with respect to any fire set for the purpose of education and training.

SECTION 5 PROHIBITIONS

No person shall:

5.1 Set, permit, or allow the setting of a fire – other than a campfire - to burn outdoors during the fire season -outside of a Fire Ban or Restricted Fire Zone - for any purpose other than cooking or obtaining warmth, except under the authority of an Open-Air Burning Permit issued by the Municipality;

5.2 Set, permit, or allow a Campfire to burn that exceeds 36" x 36" (Diameter x height)

5.3 Use a permanent or portable stove or permit the use of a permanent or portable stove for cooking or warmth in or outside of a restricted fire zone unless it is;

- 5.3.1 at least 1 metre from any naturally occurring flammable material;
- 5.3.2 CSA and/or ULC approved;
- 5.3.3 designed for and uses a liquid or gas as fuel; and,
- 5.3.4 the flame in the stove can be extinguished by closing a fuel control valve or by closing the stove.
- 5.3.5 fueled by charcoal

5.4 Set, permit, or allow a fire to burn between the hours of seven o'clock in the morning (7:00 a.m.) and seven o'clock in the evening (7:00 p.m.) from April 1 to October 31.

5.5 Set, permit, or allow a fire to burn in and / or on any highway, park, walkway, public land, or upon any land owned by the Municipality without having first obtained permission to do so from the Fire Chief or designate;

5.6 Set, permit, or allow a fire to burn that causes any issue with visibility on any highway;

5.7 Set, permit, or allow a fire on any land of which the person is not the registered owner, without the written permission of the registered landowner;

5.8 Set, permit, or allow the burning of industrial waste, agricultural waste, domestic waste, petroleum products, rubber, painted lumber, mixed demolition debris, explosives or any part thereof or anything else that will cause excessive smoke or fumes in addition to any other material identified in the regulations contained in the *Environmental Protection Act*, as amended;

5.9 Set, permit or allow a fire to burn outdoors unless the fire is under constant supervision and conditions will allow the fire to burn safely from start to extinguishment;

5.10 Fail to provide sufficient equipment and / or resources at the burn site to extinguish the fire if the fire gets out of control or is causing any adverse effects;

5.11 Burn less than 4.5 m (15 ft) measured from the edge of a fire pit to any property line, structure, tree, fence, vehicle, over-head wire or any other combustible material;

5.12 Burn less than 15 m (50 ft) measured from the edge of a fire greater than 1 cubic m (35 cubic ft) in size to any property line, structure, tree, fence, vehicle, over-head wire or any other combustible material;

5.13 Damage any property or cause injury to persons with respect to the setting of a fire or permitting the fire to burn;

5.14 Set, permit or allow any fire to burn in an area where winds are greater than 10 km per hour or when wind may cause the following unsafe conditions:

5.14.1 a decrease in visibility on any highway, road or navigable channel;

5.14.2 the rapid spread of any fire through Grass, Brush, forested area or other property that was not intended to be burned.

5.15 Leave a fire unattended until it is completely extinguished;

5.16 Set, permit or allow a fire to burn which causes a nuisance or irritation to others;

5.17 Refuse to extinguish any fire (*whether permitted or exempt*) if directed to do so by the Fire Chief or designate or by an officer of the municipality;

5.18 Set, permit or allow any fire to burn in a Fire Ban or Restricted Fire Zone (RFZ) (includes campfires);

5.19 Where an Open-Air Burning Permit pursuant to this By-Law has been issued, no person shall:

5.19.1 set, permit or allow a fire to burn without paper or electronic copy of a permit at the site of the fire set out under said permit;

- 5.19.2 fail to produce or show a paper or electronic copy of the permit to the Fire Chief or designate or to any officer of the Municipality.

5.20 Set, permit, or allow the burning of slash and land clearing debris that are not set out in piles or windrows separated by a distance of at least 20 m (66 ft) and said piles or windrows shall be in sections not exceeding 15 m or (50 ft) in length.

5.21 Detonate fireworks or firecrackers during and in accordance with a Fire Ban or in a Restricted Fire Zone;

5.22 Set, permit or allow the ignition or release of any floating lanterns

SECTION 6 CANCELLATION OF AN OPEN-AIR BURNING PERMIT

6.1 Any Open-Air Burning Permit may be cancelled or suspended at any time by the Fire Chief or designate or officer. Immediately upon receiving notice of such cancellation or suspension, the permittee shall extinguish any fire started under the permit. Failing to immediately extinguish a fire set or burning under a suspended Open-Air Burning Permit shall be considered an offence under this By-Law.

SECTION 7 APPROVAL FROM THE FIRE CHIEF OR DESIGNATE

7.1 Notwithstanding the provisions of Section 5 or 6, the Fire Chief or designate may, upon application, approve the setting of a fire, on the condition that it may be attended by the Fire Chief of the Municipality of St.-Charles or his / her designate.

SECTION 8 PERMITS

8.1 A Person making application for a Fire Permit shall:

- a) be at least eighteen (18) years or age;
- b) submit a complete application in the Form established by the Fire Chief (available on the municipal website or town hall)
- c) submit the required permit fee as prescribed in Schedule 'A' of this By-Law.

8.2 A Permit is valid for the event and period of time for which it is issued

8.3 A Permit is valid only for the property identified on the Permit.

8.4 A Permit is not transferable, non-returnable and non-refundable.

8.5 The Fire Chief may:

- a) refuse to issue a Permit where a Person has previously failed to comply with the terms and conditions of a Permit or the provisions of this By-Law;
- b) impose any additional terms or conditions considered necessary in the interest of public safety;
- c) vary the terms and conditions of a Permit upon conducting an inspection and determining safety is maintained through approved site-specific terms and conditions;
- d) revoke a Permit for failing to comply with the terms and conditions of a Permit or the provisions of this By-Law;
- e) issue a Permit for a Fire to be set during hours not otherwise permitted by this By-Law.

SECTION 9 FEES

9.1 The fees for Open-Air Burning Permits shall conform to fees set out in Schedule "A" of this By-Law.

SECTION 10 RECOVERY OF COSTS

10.1 In addition to any fines or penalties established elsewhere in accordance with this By-Law, the person who set the fire, or allowed it to burn, and/or the owner of the land if the owner permitted the fire to be set or the fire to burn, shall be responsible for the costs incurred by the Municipal Fire Department necessary to extinguish any fire set or burning contrary to this By-Law or contrary to any permit issued under this By-Law by way of a fee or charge as follows:

- a. fees based on current fire response MTO rates, and
- b. costs and expenses incurred by the Fire Department and / or in accordance with the Fees and Related Charges By-Law.

10.2 All fees and charges payable under this By-law are due and owing to the Municipality within thirty (30) days of the date of the invoice rendered to the person liable to pay them.

10.3 All overdue accounts shall accrue interest at the rate of 15.0% per annum or 1.25% per month, calculated monthly, from the due date until paid in full.

10.4 Any person failing to pay the fines set out above, forthwith upon demand, the amount of the fee in default may, in addition to any other remedies the Municipality may have, be added to tax roll and collected by the Municipality in like manner as municipal taxes in accordance with Section 398(2) or 446 of the *Municipal Act*, as amended, against the owner of the land, if the owner set the fire, allowed the fire to burn, or permitted the fire to be set or to burn, in violation of this By-Law or any permit issued under this By-Law.

SECTION 11 OFFENCES

11.1 Every person who contravenes any provision of this By-Law is guilty of an offense and may be charged in accordance with the terms of the *Fire Protection and Prevention Act*, as amended, of the *Ontario Fire Code*, in addition to the requirement to pay the fees set out above; and / or may be charged with an offence under the *Provincial Offences Act* under this By-Law.

11.2 Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

11.3 All penalties imposed by a judicial official are recoverable under the provisions of the *Provincial Offences Act* together with such costs and expenses as are imposed there under in Schedule 'C' of this bylaw.

11.4 The Administrative Monetary Penalty System Bylaw applies to each administrative penalty issued pursuant to this Bylaw.

11.5 Each person who contravenes any provision of this Bylaw shall, upon issuance of a Penalty Notice in accordance with the Administrative Monetary Penalty System Bylaw, be liable to pay to the Municipality an administrative monetary penalty.

11.6 No person shall hinder or obstruct the Fire Chief or designate or an officer of the municipality, appointed under this By-Law or employed to enforce this By-Law, from carrying out his or her duties, nor shall any person obstruct any employee or agent authorized to carry out the work for the municipality in an order issued hereunder.

SECTION 12 SEVERABILITY

12.1 Should a Court of competent jurisdiction declare a part or whole of any provision of this By-Law invalid or of no force and effect, the provision or part is deemed severable from this By-Law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard for maintenance and occupancy is maintained.

12.2 Where a provision of this By-Law conflicts with the provision of another By-Law in force within the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

SECTION 13 ADMINISTRATION AND ENACTMENT

13.1 The administrative staff of the Municipality are hereby authorized to issue the said permits and accept payment of the applicable prescribed fees as described in Schedule "A".

13.2 This By-Law replaces and repeals By-Law 2020-14 and all other By-Laws on the same subject matter which are inconsistent with this By-Law are hereby repealed.

13.3 This By-Law shall come into force and take effect on the day it is passed.

READ A FIRST AND SECOND TIME THIS 19th DAY OF October 2022.


MAYOR


CLERK

READ A THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS 15th
DAY OF February, ~~2022~~. 2023


MAYOR


CLERK

SCHEDULE “A” TO BY-LAW 2022-38

FEES

Yearly Permit - \$100.00 (inclusive of HST)
(valid January 1st through December 31st per calendar year)

Daily Permit - \$25.00 per day (inclusive of HST)
(limited to a maximum of 4 consecutive days)

Research and reporting - \$50.00 per hour (plus HST)

SCHEDULE “B” TO BY-LAW 2022-38

INCINERATORS

1. Materials to be considered for burning in an incinerator:
 - A. Yard Waste (grass, leaves, branches}
 - B. Household Items (paper, cardboard, wrapping paper)
 - C. Small Scraps of Wood
 - D. Brush and Tree Limbs
2. Material that shall not be burnt in an incinerator;
 - A. Domestic Waste
 - B. Construction Materials
 - C. Materials made of or containing Rubber
 - D. Plastic of any kind
 - E. Tar paper or any material made with Tar
 - F. Industrial Waste
 - G. Agricultural Waste
 - H. Bio Waste, Animal Waste
3. This is a suggested list and the Fire Chief or his / her designate shall have the authority to add or remove any item(s) they deem necessary.
4. Persons having the authority to burn in an approved container shall always be cautious of the wind when burning. When wind direction moves smoke and debris into their neighbour's property they shall immediately put out the fire and wait until the conditions are favorable to restart burning.

SCHEDULE "C" TO BY-LAW 2022-38 – OPEN AIR BURNING
MUNICIPALITY OF ST.-CHARLES
PART 1 – PROVINCIAL OFFENCE ACT
POA / FINES

ITEM	Short Form Wording	Provision Creating or Defining the Offence	Set Fines
1	Set, Permit, and/or Allow a fire other than a campfire.	5.1	\$150
2	Set, Permit, and/or Allow a campfire to exceed prescribed size.	5.2	\$150
3	Use and/or Allow the use of a non approved permanent or portable stove.	5.3	\$150
4	Set, Permit, and/or Allow a fire during restricted hours.	5.4	\$150
5	Set, Permit, and/or Allow an unauthorized fire on municipal land without permission.	5.5	\$250
6	Set, Permit, and/or Allow a fire that affects visibility on a highway.	5.6	\$250
7	Set, Permit, and/or Allow a fire without owner's permission.	5.7	\$150
8	Burn waste – cause, permit, and/or allow excessive smoke or fumes.	5.8	\$150
9	Set, Permit, and/or Allow a fire under unsafe conditions.	5.9	\$250
10	Fail to provide extinguishment equipment.	5.10	\$250
11	Improper minimum safe distance utilized.	5.11	\$150
12	Improper minimum safe distance utilized for fire larger than 1 cubic metre.	5.12	\$150
13	Set and/or Permit a fire causing damage to property.	5.13	\$250
14	Set and/or Permit a fire causing injury to people.	5.13	\$250
15	Set, Permit, and/or Allow a fire in high wind.	5.14	\$250
16	Leave a fire unattended.	5.15	\$250
17	Set, Permit, and/or Allow a nuisance fire.	5.16	\$150
18	Refuse to extinguish a fire when directed.	5.17	\$250
19	Set, Permit, and/or Allow a fire or campfire in a Restricted Fire Zone.	5.18	\$250
20	Set, Permit, and/or Allow a fire to be set without a permit	5.19	\$150
21	Fail to have a permit on site of fire.	5.19.1	\$150
22	Fail to produce a permit at site of fire.	5.19.2	\$150
23	Set, Permit, and/or Allow burning of land clearing piles/windrows closer than prescribed distance.	5.20	\$350

24	Set, Permit, and/or Allow burning of land clearing piles/windrows greater than the prescribed length.	5.20	\$350
25	Detonation of Fireworks or Firecrackers during a Fire Ban or in a Restricted Fire Zone	5.21	\$450
26	Set, Permit, and/or Allow the ignition or release of flying lanterns	5.22	\$450
27	Hinder or obstruct an officer.	11.3	\$450

*NOTE Penalty Provisions for the offences indicated above is Section 11.2 of By-Law 2022-38, a certified copy of which has been filed.