

**The Corporation Of The
Township Of Stone Mills
By-Law Number 2008-435**

Being A By-Law To Regulate The Setting Of Fires In The Township Of Stone Mills.

Whereas Section 11.2 of the Municipal Act, R.S.O. 2001 as amended paragraphs 6 and 8 respectively, provides that a lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:

- (6) Health, safety and well-being of persons
 - (8) Protection of persons and property, including consumer protection;
- and

Whereas Section 391 of the Municipal Act, R.S.O. 2001 as amended authorizes a municipality to impose fees or charges on persons,

- a. for services or activities provided or done by or on behalf of it;
 - b. for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
 - c. for the use of its property including property under its control;
- and

Whereas Section 398 Subsection 1 of the Municipal Act, R.S.O. 1990 provides that, "Fees and charges imposed by a municipality or local board on a person constitute a debt of the person to the municipality or local board, respectively".

NOW THEREFORE the Council of the Corporation of the Township of Stone Mills enacts as follows:

1.0 Definitions:

The following words shall have the meanings associated therewith.

- 1.1 Brush - Shall be deemed to include live or dead limbs, foliage or the trunks of trees, lumber or other wood products that are free from all other materials, grass clippings and garden refuse.
- 1.2 Building - Shall mean a structure having a roof supported by columns or walls or supported directly on the foundation and used for the shelter, accommodation or enclosure of persons, animals or goods and which may include anything constructed or erected, the use of which requires location on or in the ground or attached to something having location on or in the ground.
- 1.3 Burning Period - That period of time commencing at 7:00 P.M. through 7:00 A.M.
- 1.4 Combustion - the process of burning in which substances react with oxygen in air to produce heat.
- 1.5 Developed Area - Shall be deemed to include all lands lying within the Hamlets as recognized by the Official Plan for the Township of Stone Mills, as well as any other area where 5 or more residential dwellings are within a linear distance of 300 meters measured along the road providing access to the residential dwellings.
- 1.6 Extinguished - A fire shall be deemed extinguished when there is no open flame and there is no smoke or heat rising from the embers left from the fire.

- 1.7 Fire - The combustion of any material which has been set outdoors but excluding a fire arising from pressurized gas or charcoal.
- 1.8 Fire Appliance - Any non-combustible container specifically designed to contain a fire including the embers resulting from the fire and able to sustain the high temperatures resulting from a fire without collapsing; but which excludes an incinerator and a fire appliance commonly known as an "Outdoor Furnace" which has been tested and approved to standards imposed by CSA, UL or Warnock Hersey standards.
- 1.9 Fire Ban - That period of time declared by the Fire Chief when all outside fires are prohibited including fireworks.
- 1.10 Fire Chief - That person appointed as the Fire Chief by the Council of the Township of Stone Mills or any person acting in the absence of the Fire Chief.
- 1.11 Fire Department - Shall mean the Township of Stone Mills Fire Department and which is responsible for responding to calls of fire suppression or extinguishment and other emergency services.
- 1.12 Fire Season - That period of time commencing 12:01 AM on April 1 in each year and ending 11:59 PM on October 31st in each year.
- 1.13 Grass Fire - Shall include the burning of grass, hay or any agricultural crop that has been left standing or has been cut and allowed to remain on the ground.
- 1.14 Incinerator - Shall be deemed to include a burn barrel or any other non-combustible container that has not been specifically designed for the combustion of solid materials and shall exclude a fire appliance.
- 1.15 Lot line - Shall mean the boundary of any parcel of land or the vertical projection thereof.
- 1.16 Municipality - Shall mean the Corporation of the Township of Stone Mills and those lands that lie within the jurisdictional limits.
- 1.17 Prohibited Material - Shall be deemed to include but not necessarily limited to: kitchen refuse, plastics, rubber, tar, shingles, styrofoam, refined paper products or any other material that during combustion causes the emission of a toxic or noxious gas or smoke into the atmosphere.
- 1.18 Refined Paper - shall include any paper product that through the refining or production process, dyes, bleaches, glues or other products are added to the paper and which through the combustion process emits a toxic or noxious gas into the atmosphere.
- 1.19 Set A Fire - The ignition of a fire by any person either directly or as a result of some other activity by that person.
- 1.20 Setback - Shall mean the least horizontal distance between the closest edge of a fire and the nearest point of any building, structure, wooded area, other combustible material or lot line.
- 1.21 Set Fine - The fine approved by the Regional Senior Justice of the Ontario Court of Justice (Provincial Division) for an offence for the purpose of proceedings commenced under Part I or II of the Provincial Offences Act, R.S.O. 1990 as amended.

- 1.22 Wooded Area - Shall be deemed to include the branches, foliage or the trunk of a tree or group of trees including the open air extending between the ground and any overhanging branches or foliage.

2.0 Interpretation

- 2.1 For the purposes of this by-law, he/him shall be equally applicable to she/her and where necessary the plural of these words shall equally apply.

3.0 General Provisions

- 3.1 The general provisions of this By-law shall be in full force and effect at all times during any year.
- 3.2 No person shall set a fire within the jurisdictional limits of the Municipality except in compliance with this By-law.
- 3.3 The Fire Chief may at any time declare a fire ban if in his opinion, climatic or other conditions exist that could result in the unintended setting of a fire or the loss of control of a fire that is otherwise regulated by this By-law.
- 3.4 No person shall set a fire for any reason when a fire ban has been declared.
- 3.5 No person shall set a grass fire at any time in the Municipality.
- 3.6 Every person who sets a fire, shall immediately notify the Fire Department of the Municipality if the fire becomes out of control, or the person has reason to believe that the fire may become out of control.
- 3.7 No person shall burn prohibited material at any time in the Municipality.
- 3.8 A member of the Fire Department may at any time extinguish a fire or order any person in charge or apparently in charge of a fire to extinguish a fire.
- 3.9 Every person who receives an order from a member of the Fire Department to extinguish a fire, shall immediately cause the fire to be extinguished.
- 3.10 The Fire Chief may at his option, impose requirements other than provided herein with respect to any fire including but not necessarily limited to the identification of a specific location, size or type of appliance or incinerator, size of fire and materials to be burned.
- 3.11 Any stated or implied permission granted by this by-law may be revoked at any time if in the opinion of the Fire Chief a fire could be conducted contrary to the provisions of this by-law or the fire could result in an unsafe condition to persons or property.
- 3.12 Notwithstanding any other provision contained herein to the contrary, in any location, in the event the Ministry of Natural Resources imposes a restricted fire zone pursuant to the Forest Fire Prevention Act, R.S.O. 1990 as amended, the restrictions imposed as a result of that order shall apply.

3.13 No provision contained herein is intended to reduce or eliminate the responsibility from the person who sets a fire to do all things necessary to ensure that a fire is contained to the area or location at which the fire is set and that all buildings, structures or other combustible materials not intended to be burnt are protected from all effects arising from the fire.

4.0 Cooking and Heating

4.1 In addition to the General Provisions as contained herein, the following provisions for the specific purpose of cooking and heating shall be in effect during the fire season or at such other times as declared by the Fire Chief.

4.2 A fire shall be attended at all times by not less than one responsible person over the age of 18 years.

4.3 No person shall set a fire unless the person attending at the fire has no less than one fire extinguisher for a class A, B or C fire or such other equipment and material sufficient for the extinguishment of the fire readily available at all times.

4.4 No person shall set a fire that exceeds 1 meter in diameter or 1 meter in height.

4.5 No person shall set a fire that fails to maintain the following minimum setbacks:

a	A building or other structure	5.0 meters
b	A wooded area	5.0 meters
c	Other combustible materials	1.0 meter
d	Lot line	3.0 meters

4.6 Notwithstanding Paragraph 4.5 to the contrary, when the fire is located within a fire appliance, no person shall set a fire that fails to maintain the following minimum setbacks:

a	A building or other structure excluding the surface upon which a fire appliance is located	2.0 meters
b	A wooded area	2.0 meters
c	Other combustible material	0.3 meter
d	Lot line	3.0 meters

4.7 No person shall set a fire in a fire appliance that is not affixed with a non-combustible screen having a mesh size not greater than 3.2 millimeters on all openings of the fire appliance through which smoke or sparks may be emitted.

5.0 Incinerator Fires

5.1 In addition to the General Provisions as contained herein, the following provisions for the specific purpose of incinerator fires shall be in effect during the fire season or at such other times as declared by the Fire Chief.

5.2 No person shall set a fire contained in a fire incinerator except during the burning period.

5.3 No person shall set a fire contained in an incinerator that is not attended by at least one responsible person over the age of 18 years.

- 5.4 No person shall set a fire contained in an incinerator that fails to maintain for the person attending at the fire no less than one fire extinguisher for a Class A, B, or C fire or such other equipment and material for the extinguishment of the fire at all times.
- 5.5 No person shall set a fire contained in an incinerator that is not affixed with a non-combustible screen having a mesh size not greater than 3.2 millimeters on all openings of the incinerator through which smoke or sparks may be emitted.
- 5.6 No person shall set a fire that fails to maintain the following minimum setbacks:

a	A building or other structure	5.0 meters
b	A wooded area	5.0 meters
c	Other combustible material	2.0 meters
d	Lot line	5.0 meters
e	Residential dwelling other than on lands upon which the incinerator fire is located	60.0 meters
- 5.7 In addition to the setbacks as contained herein, no person shall set a fire in an incinerator that is located within a developed area or within 200 meters of a developed area.

6.0 Brush Fires

- 6.1 In addition to the General Provisions as contained herein, the following provisions for the specific purpose of brush fires shall be in effect during the fire season or at such other times as declared by the Fire Chief.
- 6.2 No person shall set a brush fire except during the burning period.
- 6.3 No person shall set a brush fire that is not attended by at least two responsible persons over the age of 18 years.
- 6.4 No person shall allow a brush fire to exceed 3 meters in diameter or 2 meters in height.
- 6.5 No person shall set a fire that fails to maintain the following minimum setbacks:

a	A building or structure	30.0 meters
b	A wooded area	30.0 meters
c	Other combustible material	15.0 meters
d	Lot line	10.0 meters
- 6.6 No person shall set a brush fire that fails to provide and maintain a supply of equipment and water sufficient for the extinguishment of the fire for all persons attending at the fire.
- 6.7 No person shall set multiple brush fires that is not attended by at least one responsible person over the age of 18 years for each brush fire in addition to the requirements for a single brush fire.

7.0 Enforcement

- 7.1 Penalties may be imposed upon any person who contravenes a provision of this by-law in accordance with the Schedule of Short Form Wordings and Set Fines attached hereto and which shall comprise part of this By-law. The Schedule of Short Form Wordings and Set fines shall come into effect upon the approval of

the Regional Senior Justice of the Ontario Court of Justice (Provincial Division)

- 7.2 Amendments to the Short Form Wordings and Set Fines arising from the approval of same by the Regional Senior Justice of the Ontario Court of Justice (Provincial Division) shall be enforceable without an amendment to this by-law.
- 7.3 In addition to such other remedies as identified herein, every person who sets a fire or causes to set a fire except in compliance with this by-law, may be charged a fee to a maximum of 100% of all expenditures incurred by the Municipality to extinguish the fire as determined by the Township Of Stone Mills Fire Department Schedule Of Equipment and Labour Rates in effect at the time of the fire.
- 7.4 All fees for the extinguishment of a fire in accordance with Paragraph 8.4 herein, shall be due within 90 days from the date of the invoice prepared by the Municipality.
- 7.5 All fees charged in accordance with Paragraph 8.4 herein shall be subject to 1.25% interest on the outstanding amount following the date the fee is due.
- 7.6 All fees including any interest thereon and due to the Municipality in accordance with this By-law may be added to the tax roll of the real property owned by the person(s) that incurred the fees and collected in like manner as municipal taxes in accordance with Section 398 Subsection 2 of the Municipal Act, R.S.O. 2001.
- 8.0 **Severability**
- 8.1 If the decision of any court deems any provision or requirement of this By-law, or the application of this By-law to any person to be invalid or unenforceable, this decision shall not affect any other provision or requirement, and the balance of this by-law shall remain in full force and effect.
- 9.0 **Effective Date**
- 9.1 This By-law shall be deemed to have come into effect following third reading and adoption by the Council of the Corporation of the Township of Stone Mills.
- 10.0 **By-laws Repealed**
- 10.1 By-Law 2004-107 being a by-law to amend by-law 2002-26 and to regulate open air burning together with all other by-laws adopted by the Council for the Township of Stone Mills for a similar purpose are hereby repealed in their entirety.

This By-law having been read a first, second and third time is hereby adopted this 5th day of May, 2008.

Original By-law signed on this date by:

Debbie Thompson, Reeve, and

Darlene Plumley, CAO/Clerk