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Report To: General Government Committee

Date of Meeting: October 7, 2024

Report Number: PUB-015-24

Authored by: Matt Muirhead, Chief Fire Prevention Officer, Clarington Emergency and Fire Services

Submitted By: Lee-Ann Reck, Deputy CAO, Public Services

Reviewed By: Mary-Anne Dempster, CAO

By-law Number:

Resolution Number:

File Number:

Report Subject: Open Air Burn Bylaw

Recommendations:

1. That Report PUB-015-24, and any related delegations or communication items, be received;
2. That By-law 2012-062, to regulate open-air burning, be repealed;
3. The the By-law attached to Report PUB-015-24, as Attachment 1, be approved; and
4. That all interested parties listed in Report PUB-015-24, and any delegations be advised of Council's decision.

Report Overview

Following Council's Resolution #GG-085-24, staff from Clarington Emergency and Fire Services (CEFS) reviewed Clarington's Existing open air burn bylaw 2012-062, conducted an analysis of best practices and open-air burn by-laws from comparable municipalities.

Findings from this review and analysis have been included in this report, along with a recommendation for Council's consideration to revise the current by-law as follows:

- Reduce the minimum size of property to allow open air burning from 10 or more acres to 4 or more acres.
- Increase the setback from the fire location to property lines, etc. from 15 meters to 30 meters

Various recommendations to repeal and replace By-law 2012-062 have been considered and a preferred option is included for Council's endorsement.

1. Background

- 1.1 Council approved the following [Resolution #GG-085-24](#) in May 27, 2024: Whereas other municipalities have developed a mechanism to allow for "recreational campfires in urban areas";

Now therefore be it resolved that Emergency and Fire Services Staff be directed to prepare a report for the Fall of 2024 reviewing Clarington's Open Air Burning By-law;

That the report contemplate the inclusion of a framework/regulations to allow residential burning/campfires on properties that meet a defined size and location threshold; and

That the review include best practices from other municipalities.

- 1.2 [Clarington's Open Air Burning By-law 2012-062](#) was last revised on June 10, 2019. Council adopted the recommendations of [Report ESD-004-19](#) and approved [By-law 2019-040](#), which amended the Open-Air Burning By-law regarding piling material on agricultural land.

2. Discussion

Clarington's Current Open Air Burn By-law 2012-062

- 2.1 Clarington's By-law 2012-062 contains the following:
- a) Recreational burning (campfires, chimineas, fire pots, etc.) is not permitted.
 - b) Open air burning (burning of brush and other natural items from a person's property in the open air, not enclosed in a device) is allowed on the condition that the property is a minimum of 10 acres in size, and the property owner obtains a burn permit form CEFS.
 - c) No permit shall be issued for a property that is located within areas designated as "Urban Area" or "Hamlet Residential" in the Clarington Official Plan.
 - d) Burn Permits are permitted for 30-days or 12-months, at a cost of \$40.50 per 30-day permit and \$81.00 per 12-month permit.
- 2.2 Burn permits include safety related limitations including, safe setback distances from property lines and structures/combustible materials, pile size, burn times, weather considerations, and methods of extinguishment.

Open Air Burn Bylaw from other Municipalities

- 2.3 Open Air Burn By-laws from comparable municipalities were reviewed with the following findings related to the burning distance requirements (measured in meters) from property lines, structures and combustible materials for recreational, open air and farm agricultural burn permits:

Municipality	Recreational	Open-Air (* = as per site permit conditions)	Farm (* = as per site permit conditions)
Ajax	50m	50m	50m
Alnwick/Haldimand	15m	*	*
Brighton	4.5m	4.5m	46m
Brock	6m	15m	50m
Cobourg	10m	*	*
Cramahe	15m	20m	50m
Kawartha Lakes	15m	15m	50m
Oakville	3m	*	45m
Oshawa	Not Approved	15m	45m
Pickering	Not Approved	*	30m

Municipality	Recreational	Open-Air (* = as per site permit conditions)	Farm (* = as per site permit conditions)
Port Hope	7.6m	15m	30m
Scugog	5m	15m	30m
Uxbridge	15m	15m	45m
Whitby	9m (Spa only)	*	*

2.4 Principal findings from this comparative review include:

- a) Clarington's closest comparators (Oshawa, Whitby and Pickering) do not allow recreational burning. Ajax allows recreational burning with a requirement for a 50m setback, which would only be possible on a property that is a minimum of 300 feet wide and 400 feet deep (3-acre lot) with no trees or other combustibles within the setback area.
- b) The remaining municipal comparators who do allow recreational burning are smaller and have less dense populations than Clarington.

3. Considerations and Scenarios

3.1 Staff completed a review and analysis of three different scenarios. After research and consideration, staffs' recommendation is to approve the second scenario.

3.2 Scenario One: Do nothing; keep Clarington's Open-Air By-law unchanged.

a. Advantages of Scenario One:

Clarington's existing by-law 2012-062 is restrictive when compared to most municipal comparators. Whitby, Pickering and Ajax each allow open air burning on properties that are less than 10 acres, if they have the required setbacks or property designation. By Clarington deciding to turn down the consideration of a new Open Air burn By-law there will not be an increase in the number of fires and smoke in the community, keeping the risk of property damage, injuries, and the impact on the environment the same.

b. Disadvantages of Scenario One:

Clarington's current by-law 2012-062 may be overly restrictive when compared to other municipalities. By doing nothing, people who own less than 10 acres will continue to not be able to conduct open air burning of brush on their property.

Recreational burning will continue to not be allowed.

- 3.3 Scenario Two: Revise current open-air burn bylaw 2012-062 to decrease the minimum acreage size required for open air burning from 10 acres to 4 acres, increase the setback distance requirements to lot lines to help mitigate the impact to neighbours from the potential increase in smoke.

a. Advantages of Scenario Two:

Reducing the minimum lot size from 10 acres to 4 acres to be eligible to conduct open air burning allows more property owners to burn brush from their own property.

Increasing the property set back from 15 meters to 30 meters from the fire location to buildings, structures, property lines, fences, trees, overhead wires, etc., may lessen the neighbourhood impact from the increase in fires due to the acreage decrease.

This scenario would see a potential increase in the number of properties eligible to burn by 416 properties.

Open air burning will not be permitted in urban and hamlet areas.

b. Disadvantages of Scenario Two:

Lowering the open-air burning acreage size requirements from 10 acres to 4 acres will likely result in an increase in the number of open-air fires, which would increase smoke & odor in the community, negatively impact the environment, potentially increasing community fire risk, and increasing the impact to community well-being and enjoyment from smoke. It may increase the number of nuisance complaints received by CEFS Fire Prevention staff, increasing workload.

- 3.4 Scenario Three: Implement changes from Scenario Two, plus allow recreational burning.

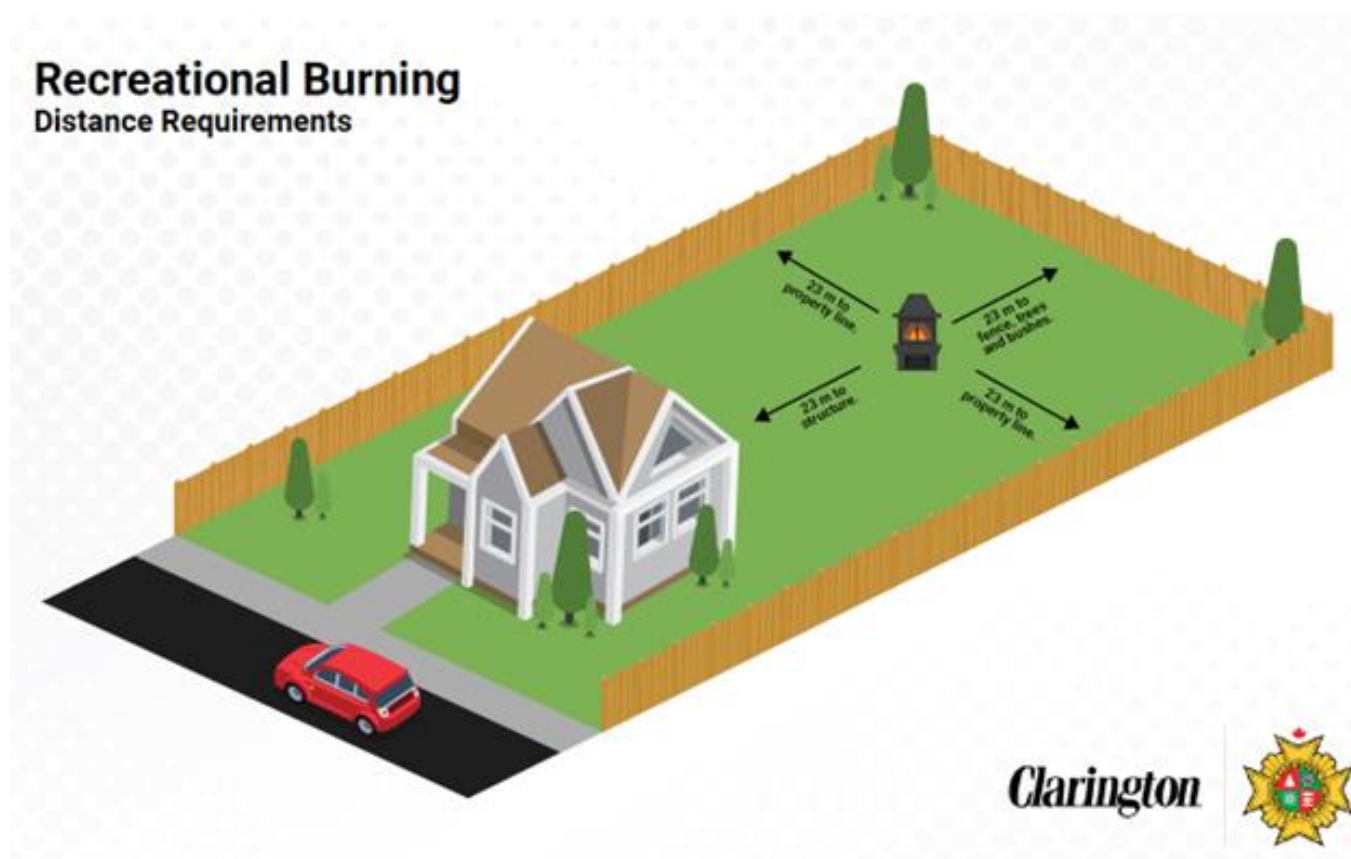
a. Advantages of Scenario Three:

Introducing recreational burning will provide residents with the opportunity to enjoy a recreational fire for personal enjoyment

Allowing recreational burning would require a determination of minimum property sizes, burning distance setbacks, and the identification of approved devices to safely contain a small fire. The following items would have to be considered.

Recreational Burning Property Size:

Setbacks – Introduction of a new recreational burn set back of 23 meters (75 feet) from the fire to property lines, etc. is the minimum distance that may help to minimize any neighbourhood smoke & odor complaints. This setback distance requires that the property lot is at least 46meters (150 feet) wide and approximately 61 meters (200 feet) deep. Please see image below to show visually see set back requirements:



Requirements of Recreational Devices:

To help minimize community risk, residential properties eligible to conduct recreational burning would be required to have a manufactured non-combustible enclosed device, no larger than 1mx1mx1m, designed solely for containing a small recreational fire. Equipped with a removable spark screen where the fuel is loaded, and where a non-removable spark screens on any other openings including chimneys, etc. are required. Examples of recreational fire devices that would be approved for use shown in the pictures below.



b. Disadvantages of Scenario Three:

There are 1,754 residential properties in Clarington large enough to meet this 46-meter property width. Having this many additional properties being allowed to burn would increase the number of eligible properties from 1,916 under the existing open air burn by-law to 3,670, for an increase of 91.5%. With an increase of this size, it would likely result in an increase of nuisance complaints from neighbours with the presence of smoke and odor throughout the community raising.

In 2023, CEFS received 114 calls for illegal/nuisance burning. It would not be unreasonable to expect this number to increase significantly under option 3, thereby impacting the following groups in CEFS:

I. Suppression: Division

A fire truck and fire crew will respond to a reported fire at a property and will assess the complaint for illegal/nuisance burning.

II. Fire Prevention Division:

A Fire Prevention Inspector may conduct an inspection related to illegal/nuisance burning complaints and may lay charges.

III. Business Services Division:

Business Services staff will identify repeat offenders where emergency vehicles have responded to any second incidents at the same location for an unapproved burning complaint in a 12-month period and will prepare billing invoices.

Business Services and Fire Prevention staff are required to process and issue each burning permit application.

4. Recommendation

- 4.1 CEFS is recommending Scenario #2- Revise current open-air burn by-law 2012-062 to decrease the acreage size of those properties allowed to conduct open air burning from 10 acres to 4 acres and increase setback distances.
- 4.2 While reviewing existing open-air burn By-law 2012-062, attention was focused on how to increase the number of properties that could safely engage in open air burning, while also being mindful of community safety/enjoyment and environmental impacts. Reducing the lot size from 10 acres to 4 acres, while doubling the property setbacks from 15 to 30 meters strikes a balance between both competing interests.
- 4.3 Current open-air burn By-law 2012-062 indicates that only properties that are a minimum of 10 acres in size are permitted to conduct open air burning.
- 4.4 In 2024, of the 1,916 properties who have a property large enough to conduct open air burning, 300 of them applied for permits, or approximately 16 percent. If an average of 16 percent of the 416 addition properties being considered in this scenario apply for a burn permit there will be an increase of approximately 67 permits annually.
- 4.5 Recommended Open Air Burning Change Summary:
- 4.6 Allowing open air burning on residential or agricultural properties that have a minimum lot size of 4 acres and zoned rural under the Clarington Official Plan.
- 4.7 Setbacks must be at least 30 meters from the fire location to buildings, structures, property lines, fences, trees or overhead wires, combustible materials, etc.

5. Financial Considerations

It is anticipated that there will be an increase of 67 open air burn permits as outlined in section 4.4. At \$81 per permit, this would result in an annual revenue increase of \$5,427.

6. Strategic Plan

Not applicable.

7. Climate Change

- 7.1 An open-air burn policy can have environmental consequences. While these activities may seem small-scale, they still release pollutants like carbon dioxide, particulate matter, and volatile organic compounds into the air, contributing to poor air quality and climate change. The use of chemically treated wood or improper materials in fire pits can further exacerbate pollution and release toxic chemicals, posing health risks to humans and wildlife. Additionally, the cumulative effect of many recreational fires in populated areas can increase health risks, particularly for people with respiratory conditions.
- 7.2 Considering the environmental impact resulting from the burning of treated wood, or improper materials, the recommendation contained in this report is limited to the burning of brush and other natural items from the property applying for the burn permit.

8. Concurrence

Not applicable.

9. Conclusion

It is respectfully recommended that Council endorse the recommendation in this report.

Staff Contact: Matt Muirhead, Chief Fire Prevention Officer, 905-260-0773, x2801 or mmuirhead@clarington.net.

Attachments:

Attachment 1 - 2024-xxxx Open Air Burn By-law

Interested Parties:

The following interested parties will be notified of Council's decision:

Brain Sweny, Resident of the Municipality of Clarington