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The Corporation of the Municipality of Clarington

By-law YYYY-NN

Being a By-law to regulate open-air burning.

Whereas section 7.1 of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 authorizes the council of a municipality to pass by-law regulating the setting of open-air fires, including establishing the times during which open air fires may be set;

And whereas, part 2 of the Ontario Fire Code, O.Reg. 213/07, subsection 2.4.4.4 (1) provides that open air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, used to cook food on a grill, spit, or barbecue, and commensurate with the type and quantity of food being cooked;

And whereas, the municipal Act, 2001, S.O 2001, c 25, Section 11 (2), provides that a council of a lower-tier and upper-tier may pass by-laws with respect to the economic, social and environmental well-being of the municipality, including respecting climate change, and the health, safety and well-being of persons;

And whereas, the municipality Act, 2001, S.O 2001 c. 25, Section 391 (1) provides that a municipality may pass by-laws imposing fees or charges on Persons for services or activities provided or done by or on behalf of it, including permit fee;

Now therefore, the Council of The Corporation of the Municipality of Clarington enacts as follows:

PART 1 – INTERPRETATION

1. Definitions

1.1. For the purpose of this By-law,

- (a) **“Agricultural Burn”** means a burn permit for agricultural properties that fall within the normal farm practices as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1.
- (b) **“Barbeque”** means an appliance that is designed and approved by a recognized testing agency and intended solely for cooking food by a small, confined fire. Barbeques must be used in accordance with the manufacturer’s instructions, but it does not include devices predominantly designed for personal warmth, or recreational fires.
- (c) **“Burn Ban”** means no person shall set a fire within the Municipality of Clarington while the burn ban is imposed by the Fire Chief.
- (d) **“Cost recovery”** means where section 8 of this By-law is invoked, all costs associated with the work may be added to the tax roll of the property to which the offense occurred and shall be collected in the same manner as municipal taxes pursuant to the municipal Act 2001, c. 25, s. 398 (2).
- (e) **“Fire Chief”** means the Fire Chief of the Municipality or a designate.
- (f) **“Flying Lantern”** means a small hot air balloon or other device designed to carry an open flame as an airborne light, also known as a Sky Lantern, Chinese Lantern, Kongming Lantern, Wish Lantern, or other similar devices which are devices containing a fuel source, which is usually a petroleum or wax based fuel that when lit causes the lantern to rise.
- (g) **“Municipality”** means The Corporation of the Municipality of Clarington or the geographic area of Clarington, as the context requires.

- (h) **“Nuisance”** means smoke or flames, odour, airborne sparks or embers that inhibits neighbours’ ability to enjoy their properties or conduct business without disruption.
- (i) **“open-air burn”** means the burning of any materials outside of a building, including without limiting the generality of the foregoing, brush or tree limbs, agriculture waste, where the flame is not wholly contained and is, thereby, open to the air.
- (j) **“Outdoor fireplace”** means a manufactured non-combustible enclosed device with both, spark screen and non-removable spark screen on vents and chimneys, intended solely for containing a small recreational fire that is no larger than 1m x 1m x 1m high.
- (k) **“Recognized testing agency”** means Underwriters Laboratories of Canada, Canada Standards Association, Warnock Hersey or similar agencies that test, approve and certify products for use.
- (l) **“Recreational burn”** means a fire that is set and maintained solely for the purpose of providing warmth or recreational enjoyment which is contained to an outdoor fireplace.
- (m) **“refuse”** means many articles, thing, matter or any effluent belonging to or associated with a house or household, any industry, trade or business and without limiting the foregoing, may include:
 - i. Accumulation of remains, rubbish or trash.
 - ii. Litter, including paper, cartons, newspapers, flyers, cardboard, and/or packing.
 - iii. Machinery and machinery equipment and/or parts, including but not limited to vehicular parts and or accessories, tires, furnace and/or furnace parts, pipes and/or pipe fittings, water tanks, fuel tanks, and/or septic tanks, tubing, conduit, cable.
- (n) **“Small, confined fire”** means a barbeque appliance that has been approved by a recognized testing agency for solely cooking food.

- (o) **“Self-contained residential dwelling unit”** means a suite operated as a housekeeping unit, used or intended to be used by one or more persons that contains cooking, eating, living, sleeping and sanitary facilities
- (p) **“Spark screen”** means a manufactured non-removable metal screen guard, that keeps the sparks and embers contained within the outdoor fireplace.
- (q) **“owner”** means the person identified in the most recent tax roll as the owner of a property.
- (r) **“Permit”** means a approved document issued to an owner in accordance with this by-law.
- (s) **“Person”** includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives.
- (t) **“Urban areas or Hamlet residential properties”** are properties as designated in the Clarington Official Plan.

2. References

- 2.1. In this by-law, reference to any Act is reference to that Act as it is amended or re-enacted from time to time.
- 2.2. Unless otherwise specified, references in this by-law to sections are references to sections in this by-law.

3. Word Usage

- 3.1. This by-law shall be read with all changes in gender or number as the context may require.
- 3.2. A grammatical variation of a word or expression defined has a corresponding meaning.

4. Application

- 4.1. This by-law applies to all land within the Municipality unless otherwise specified.

PART 2- GENERAL CONDITIONS FOR ALL BURN PERMITS

5. General

- 5.1. No persons shall set an open-air burn or agricultural burn in the Municipality of Clarington without an approved burn permit. Open-air burning is permitted for residential & agricultural properties that have 4 acres or more.
- 5.2. Recreational burns are not permitted in the Municipality of Clarington and no burn permits shall be issued for them.
- 5.3. Open Air burns are not permitted in “Urban areas or Hamlet residential properties”.
- 5.4. Burn permits will be issued to the owner of the property. Occupants of the property can apply for a permit but must obtain written consent from the owner of the property. Multi-residential properties containing 3 or more self-contained residential dwelling units are not permitted to burn unless approved by the Fire Chief or assigned designates.
- 5.5. The holder of a burn permit shall at all times, have a competent adult (18 years or older), remain at the burn site for the purpose of tending, controlling and supervising the fire.
- 5.6. Every person responsible for tending, controlling and supervising the burn shall ensure that the fire is completely extinguished before leaving the burn site.
- 5.7. No burning shall be maintained when weather conditions can cause any or all of the following:
- a) A decrease in visibility on any highway or roadway;
 - b) A rapid spread of fire through grass or brush area;
 - c) A public nuisance by creating negative health effects or interference on neighbouring residents.
- 5.8. No person shall burn during a Fire Ban or when a smog alert has been declared by the Ministry of Environment for Ontario

- 5.9. No person shall burn materials other than, commercially produced charcoal, briquettes, brush or tree limbs or agricultural waste.
- 5.10. No person shall ignite or release any ignited flying lanterns
- 5.11. No burn permits are permitted on urban commercial properties, industrial properties, salvage yards or construction sites, unless approved by the Fire Chief or assigned designates.
- 5.12. The holder of the burn permit shall have an effective extinguishing agent or device of sufficient size and the capability of extinguishing the fire, at the burn site and readily available for use at all times.
- 5.13. If Clarington Emergency and Fire Services is of the opinion that the continued burning of the recreational burn, open-air burn or agricultural burn is a hazard, Clarington Emergency and Fire Services may direct the fire to be extinguished immediately.
- 5.14. The Clarington Emergency and Fire Services shall be exempt from the provision of this By-law with respect to open-air burning for educational and training purposes.
- 5.15. Any person who contravenes any provision of this By-law is guilty of an offense and upon conviction is liable to a fine as set out in section 8.
- 5.16. The Fire Chief or appointed designate may approve or refuse any permit application and may impose any additional conditions to reduce the risk of fire spreading.
- 5.17. The Fire Chief or appointed designate may revoke a permit if any or all the following applies:
 - a) The permit was issued in error,
 - b) Any conditions in the By-law are not being complied with,
 - c) The permit information was false, incorrect or misleading,
- 5.18. If a burning permit is revoked due to section (a) (b) (c), the application fee shall not be returned.

- 5.19. No permit is required for burning in a barbeque that has been approved by a recognized testing agencies for cooking food, if they are used safely and in accordance with the manufacturing instructions.
- 5.20. No permit is required for commercially designed heating devices that have been approved by recognized testing agencies that are fueled by natural or propane gas and used safely in accordance with the manufacturing instructions.

PART 3 - PERMITS

6. Permit Applications

- 6.1. Any person wishing to set an open-air burn or agricultural burn shall submit a burn permit application for thirty (30) day or twelve (12) months to Clarington Emergency and Fire Services for review and approval.
- 6.2. **Open-air burning conditions** – The holder of the open-air burn permit shall, in addition to complying with Part 2 of this By-law, comply with the following:
- a) Shall burn at ground level
 - b) Burn must be contained within a base/pit with a pile no larger than 1m x 1m x 1m (3.3ft x 3.3ft x 3.3ft).
 - c) All materials to be burned is, brush or tree limbs from the property
 - d) Burn shall be at least 30m (100ft) from property lines, fences, street/road/highway, overhead wires, structures, trees and bush/hedges or other combustible materials.
 - e) Burning shall be conducted between 10am-8pm.
 - f) No person shall burn any refuse, grass clippings or leaves.
 - g) Properties where the burn is occurring must be a minimum of 4 acres in size.
- 6.3. **Agriculture burn permit Conditions** – The holder of the agricultural burn permit shall, in addition to complying with Part 2 of this By-law, comply with the following:
- a) Shall burn at ground level,

- b) Burn must be contained within a base/pit no larger than 3m x 3m x 3m (9.8ft x 9.8ft x 9.8ft).
- c) All materials to be burned are agricultural waste from normal farm practice as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1.
- d) Burn shall be at least 30 m (100ft) from property lines, fences, street/road/highway, overhead wires, structures, trees and bush/hedges, or other combustible materials.
- e) Burning shall be conducted between 10am-8pm
- f) No person shall burn any refuse, grass clippings or leaves.
- g) Properties where the burn is occurring must be a minimum of 4 acres.

PART 4 - ENFORCEMENT

7. Inspections

- 7.1. In this section, "Officer" means any employee, officer or agent of the Municipality of Clarington whose duties include the enforcement of this by-law.
- 7.2. An Officer may, at any reasonable time, enter upon any property for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law have been complied with.
- 7.3. No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection undertaken by an Officer.

8. Offences and Penalties

- 8.1. Any person who contravenes any provision of this by-law is guilty of an offense and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offenses Act, R.S.O. 1990, c. P.33.
- 8.2. Any person who contravenes the provisions of the By-law is guilty of an offense and upon conviction shall be liable to the penalties imposed pursuant to the Fire Protection and Prevention Act, 1997, S.O. 1997, c 4, as amended for each offense, exclusive of costs.
- 8.3. Any person who sets an , open-air burn or agricultural burn in the Municipality of Clarington, assumes full responsibility for fire control and may be liable for cost

recovery incurred by Clarington Emergency and Fire Services and or mutual aid partnering Fire Departments, including but not limited to; costs of the personnel and equipment as authorized and set out in the Municipality of Clarington fee schedule By-law in effect at the time of the incident and authorized by the Fire Chief or assigned designates.

PART 5 - GENERAL

9. Validity

- 9.1. In the event any court of competent jurisdiction declares any section or provision of this By-law to be invalid, or be of no force and effect for any cause, such section or provision thereof shall be deemed severable from the remainder of the By-law and the remainder of the By-law shall stand to be enforceable to the same extent as if the offending section or provision thereof had not been included herein.

10. Short Title

- 10.1. The short title of this by-law shall be the "Open Air Burning By-law".

11. Repeal

- 11.1. That By-law No. 2012-062 be repealed.

12. Effective Date

12.1. This by-law shall be effective on the date that it is passed.

Passed in Open Council this XX day of MMMM, 2024.

Adrian Foster, Mayor

June Gallagher, Municipal Clerk

Written approval of this by-law was given by Mayoral Decision MDE-2024-XXX dated XXXX XX, 2024.