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The Corporation of the Municipality of Clarington

By-law 2025-002

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 10 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 an manufactured appliance, portable or fixed in place, constructed of non-combustible materials, which contains a chamber located within the firebox of the appliance used to contain a combustion flame, a vent or chimney to control the flow of air or combustion gases from the appliance, a spark screen located at the end of the vent or chimney to control disbursement of sparks, and is enclosed on all sides or protected with a spark screen on all sides. The appliance is 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 burning”** 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 BURNING

5. General conditions for Open-Air Burning:

- 5.1. No persons shall set an open-air burn in the Municipality of Clarington without an approved burn permit. Open-air burning is permitted for residential properties that have 4 acres or more.
- 5.2. Open-Air burning is not permitted in “Urban areas or Hamlet residential properties”.
- 5.3. Open-air burn permits will be issued to the owner of the property. Occupant leasing 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.
- 5.4. The holder of an open-air 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.
- 5.5. Every person responsible for tending, controlling and supervising the burn shall ensure that the fire is completely extinguished before leaving the burn site.
- 5.6. 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.
- 5.7. No person shall burn during a Fire Ban or when a smog alert has been declared by the Ministry of Environment for Ontario with respect to air quality.
- 5.8. No person shall burn materials other than, brush or tree limbs or dry season wood.
- 5.9. No person shall ignite or release any ignited flying lanterns.

- 5.10. No open-air burn permits are permitted on urban commercial properties, industrial properties, salvage yards or construction sites, unless approved by the Fire Chief or assigned designates.
- 5.11. The holder of the open-air 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.
- 5.12. If there is a nuisance complaint filed for the property and Clarington Emergency and Fire Services have determined that the open-air burning is in compliance with the By-law, they will allow the resident to continue to burn.
- 5.13. 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.
- 5.14. 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 10.
- 5.15. 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.
- 5.16. 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,
- 5.17. If a burning permit is revoked due to section (a) (b) (c), the application fee shall not be returned.
- 5.18. No permit is required for burning in a barbeque that has been approved by a recognized testing agencies for cooking food using commercially produced charcoal, briquettes if they are used safely and in accordance with the manufacturing instructions.
- 5.19. 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.

6. General conditions for Agriculture Burning:

- 6.1. No persons shall set an agricultural burning in the Municipality of Clarington without an approved burn permit. Agricultural properties must have 4 acres or more.
- 6.2. Agricultural burns are not permitted in “Urban areas or Hamlet residential properties”.
- 6.3. Agricultural Burn permits will be issued to the owner of the property. Occupants leasing the property can apply for a permit but must obtain written consent from the owner of the property.
- 6.4. The holder of the agricultural 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
- 6.5. Every person responsible for tending, controlling and supervising the burn shall ensure that the fire is completely extinguished before leaving the burn site
- 6.6. 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
- 6.7. No person shall burn during a Fire Ban or when a smog alert has been declared by the Ministry of Environment for Ontario with respect to air quality.
- 6.8. No person shall burn materials other than brush, trees, dry seasoned wood
- 6.9. No person shall ignite or release any ignited flying lanterns
- 6.10. The holder of the agricultural 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.
- 6.11. If there is a nuisance complaint filed for the property and Clarington Emergency and Fire Services have determined that the open-air burning is in compliance with the By-law, they will allow the resident to continue to burn.

6.12. 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 10.

6.13. 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.

6.14. 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,

6.15. If a burning permit is revoked due to section (a) (b) (c), the application fee shall not be returned.

6.16. No permit is required for burning in a barbeque that has been approved by a recognized testing agency for cooking food using commercially produced charcoal, briquettes, if they are used safely and in accordance with the manufacturing instructions.

6.17. 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.

7. General conditions for Recreational Burning:

7.1. No permit is required for recreational burning if the; owner adheres to the following conditions:

7.2. Occupant leasing the property must have written permission from the owner to recreational burn.

7.3. The owner or occupant has a competent adult (18 years or older), remain at the burn site for the purpose of tending, controlling and supervising the fire

7.4. 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
- 7.5. No person shall burn during a Fire Ban or when a smog alert has been declared by the Ministry of Environment for Ontario with respect to air quality.
- 7.6. No person shall burn materials other than, dry seasoned wood logs
- 7.7. No person shall ignite or release any ignited flying lanterns
- 7.8. Recreational burning is not permitted on urban commercial properties, industrial properties, salvage yards or construction sites, unless approved by the Fire Chief or assigned designates.
- 7.9. The owner or occupant of the property shall have a garden hose located in close proximity to the fire and ensure the water supply valve is fully opened to facilitate quick and thorough extinguishment of the fire.
- 7.10. Every person responsible for tending, controlling and supervising the fire shall ensure that the fire is completely extinguished before leaving the burn site.
- 7.11. If there is a nuisance complaint filed for the property and Clarington Emergency and Fire Services have determined that the open-air burning is in compliance with the By-law, they will allow the resident to continue to burn.
- 7.12. 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 10.
- 7.13. Owner or occupants of the property are permitted to use a barbeque that has been approved by a recognized testing agencies for cooking food using commercially produced charcoal, briquettes, if they are used safely and in accordance with the manufacturing instructions.
- 7.14. Owner or occupants of the property are permitted to use 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.

7.15. No person shall conduct a recreational burn:

- a) On a combustible surface.
- b) Except in an outdoor fireplace, max appliance size of 1m x 1m x 1m.
- c) Within 7.5m of a property line, fence, street/road/highway, overhead wire, structure, tree, bush/hedge or other combustible materials.
- d) Between the hours of 10:00 p.m. to 10:00 a.m.
- e) With refuse, grass clippings, or leaves as fuel.

PART 3 – PERMITS for Open-Air & Agricultural Burning

8. Permit Applications

8.1. 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.

8.2. **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 10:00 a.m.to 10:00 p.m.
- 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.

8.3. **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 10:00 am to 10:00 pm
- 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

9. Inspections

- 9.1. In this section, “Officer” means any employee, officer or agent of the Municipality of Clarington whose duties include the enforcement of this by-law.
- 9.2. 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.
- 9.3. No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection undertaken by an Officer.

10. Offences and Penalties

- 10.1. 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.
- 10.2. 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.
- 10.3. Any person who knowingly, repeatedly or spitefully causes a response from the Fire Department upon any person having an recreational or open air fire legally under this By-law is in contravention of the Bylaw and may be liable for costs incurred by the Fire Department as set out in the Municipality of Clarington fee schedule By-law in the effect at the time of the incident and authorized by the Fire Chief or assigned designates.
- 10.4. Any person who sets an recreational burn , 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

11. Validity

- 11.1. 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.

12. Short Title

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

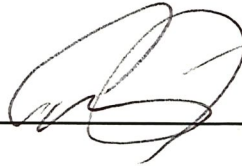
13. Repeal

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

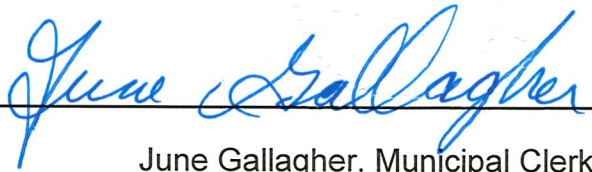
14. Effective Date

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

Passed in Open Council this 27th day of January 2025.

A handwritten signature in black ink, appearing to read 'Adrian Foster', written over a horizontal line.

Adrian Foster, Mayor

A handwritten signature in blue ink, appearing to read 'June Gallagher', written over a horizontal line.

June Gallagher, Municipal Clerk

Written approval of this by-law was given by Mayoral Decision MDE-2025-003 dated January 27, 2025.