

# Corporation of the City of Clarence-Rockland

## By-law 2022-59

A by-law to regulate the setting of fires in open air within the City of Clarence-Rockland and to amend by-law 2022-33, being a by-law to establish an Administrative Monetary Penalty System.

Whereas Council of the Corporation of the City of Clarence-Rockland is empowered under section 7.1(1) (a) of the Fire Protection and Prevention Act, as amended, to pass by-laws regulating fire prevention, including the prevention of the spreading of fires; and

Whereas Council is empowered under section 7.1(1) (b) of the Fire Protection and Prevention Act, to pass by-laws regulating the setting of open-air fires, including establishing the times during which open air fires may be set; and

Whereas Council is empowered under section 128 of the Municipal Act, 2001, as amended, to pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are, or could become or cause public nuisances.

Therefore, the Council of the City of Clarence-Rockland enacts as follows:

### 1. Definitions

In this By-law:

- 1.1. *Applicant* means the person making an application for a permit under this by-law;
- 1.2. *Barbeque* means a portable or fixed device designed and intended solely for the cooking of food in the open air, including a wood burning barbeque, or a smoker, but does not include burn barrels, fire pits, outdoor fireplaces, or campfires;
- 1.3. *Burn Barrel* means a 'clean' (not chemically contaminated), non-combustible, enclosed container barrel, intended to hold a small fire for burning wood and small branches, the size of which does not exceed 76cm in diameter (30in) and 88cm in height (35in);
- 1.4. *Campfire* means an open-air fire where the size of burn area (containing all burning and burnt materials) does not exceed 76cm (30 in) in width/diameter and 60cm (24 in) in height, is not covered by a spark arresting cover, and that is set and

- maintained solely for the purposes of cooking food, providing warmth and recreational enjoyment;
- 1.5. *Compost material* means waste material of Type III, as defined in the City of Clarence-Rockland Waste Management By-Law, as amended from time to time;
  - 1.6. *City* means the municipal corporation of the City of Clarence-Rockland;
  - 1.7. *Fire Ban* means a ban put in place by the Fire Chief or designate to prohibit setting or maintaining of open-air fires (including campfires), but does not include burn barrels, wood burning barbecues, fire pits, or outdoor fireplaces, provided they are constantly monitored;
  - 1.8. *Fire Chief* means a person appointed by the Council of the City of Clarence-Rockland to carry out the duties and responsibilities of fire prevention and any person who has been designated to administer and enforce this By-law;
  - 1.9. *Fire Department* means the Fire Department for the Corporation of the City of Clarence-Rockland
  - 1.10. *Fire Pit* means a constructed fire pit (e.g., a circular pit such as a rim), where the burning section is not more than 75cm (29.5 in) in diameter which is set and maintained solely for the purposes of cooking food, providing warmth and recreational enjoyment;
  - 1.11. *Highway* includes a common and public highway, a main road or thoroughfare, such as a street, boulevard, or parkway, available to the public for use for travel or transportation and includes the area between the lateral property lines thereof;
  - 1.12. *Land Clearing materials* means trees, roots, stumps, and dirt resulting from the clearing of lands covering an area of 0.5 hectare (1.2 acres) or more;
  - 1.13. *Maintain* means to allow a fire, including an open-air fire, to continue to burn and "maintained" and "maintaining" have the corresponding meaning;
  - 1.14. *Municipal Law Enforcement Officer* means an officer appointed to enforce the provisions of City By-Laws by virtue of Section 15 of the Police Services Act, R.S.O. 1990, Chapter P.15, as amended;
  - 1.15. *Open air fire* means the burning of material such as wood, tree limbs and branches in a burn pile no bigger than 5m (15ft) in width/diameter, and no more than 3m (10ft) in height, where the flame is not wholly contained and/or there is no spark arrester in place and includes campfires, but does not include fire pits, outdoor fireplaces, burn barrels or barbecues;

- 1.16. *Outdoor fireplace* means a manufactured, non-combustible, enclosed container designed to hold a small fire for decorative purposes and the size of which does not exceed 76cm (30in) in any direction and includes, but is not limited to a chiminea;
- 1.17. *Permit* means a burning permit issued under this by-law which grants a privilege to set an open-air fire (including a campfire) or use a burn barrel, fire pit, or an outdoor fireplace;
- 1.18. *Permit Holder* means the person to whom a burning permit is issued;
- 1.19. *Set* means to light a fire, including an open-air fire, and "setting" has the corresponding meaning;
- 1.20. *Total Fire Ban* means a ban put in place by the Fire Chief or designate which shall prohibit the setting or maintaining of any type of fire, including open air fires, burn barrels, wood burning barbecues, fire pits, and outdoor fireplaces;
- 1.21. *Urban Area* means the area set out in the current Clarence-Rockland Zoning By-Law.
- 1.22. *Waterbody* means a natural bay, lake, watercourse, or canal other than a drainage or irrigation channel;
- 1.23. *Woodlands* means land as specified in accordance with the Forestry Act, R.S.O. 1990 C.F.26.

## 2. General interpretation

- 2.1. No person shall set or maintain a fire of any kind, including an open-air fire, a burn barrel, a fire pit, or an outdoor fireplace, without having obtained a permit issued by the Fire Chief or their designate.
- 2.2. The Fire Chief or their designate is hereby responsible and authorized to:
  - a) issue permits as provided in this by-law;
  - b) sign all permits on behalf of the City;
  - c) limit the time for which a permit is issued for open air fires to a maximum of one calendar year;
  - d) undertake any investigation or inspection for the purpose of administering this by-law; and
  - e) advise the applicant of any additional precaution(s) to be taken in order to keep the fire under control at all times.
- 2.3. The permit referred to in this by-law is to grant, to an applicant, the permission to set a fire as outlined in the permit.

- 2.4. The Fire Chief or their designate shall evaluate an application for a permit under this By-law and may require that the applicant provide a bond or other security sufficient to cover the cost of extinguishing such fire.
- 2.5. The Fire Chief or the Municipal Law Enforcement Officer may:
  - a) demand that a permit issued under this bylaw be produced for inspection from any permit holder;
  - b) inspect any premises for which a permit has been applied for, or issued under this bylaw; or
  - c) enter, at all reasonable times, upon any property in order to ascertain whether the provisions of this by-law are obeyed and to enforce or carry into effect this by-law.

### 3. General requirements

- 3.1. A burn barrel shall:
  - a) be in good condition; and
  - b) be equipped with, and may only be used with a spark arresting heavy metal screen which completely covers the top of the barrel (the burning area); and
    - i. all burning/burnt material with openings no bigger than 1.3cm (0.5 in) designed to stop sparks and embers from leaving the burn area; and
    - ii. ventilation holes in the side of the burn barrel shall not be larger than 1.3cm (0.5in.), or shall be covered in a spark arresting mesh;
  - c) sit on and be ringed by a non-combustible material, separated from grass and any other vegetation or combustible material by a distance of at least 50cm (18 in) by means of clean earth, sand, gravel or other non-combustible medium; and
  - d) be a minimum of 5m (15 ft) from any property line, building, deck, porch, tree, shrub, etc. (including the 5m (15 ft) diameter in the airspace above the burn barrel).

For further clarity, should a burn barrel be used without the screen mesh, it would be considered an open-air fire and would need to comply with permits and other requirements for such a fire.
- 3.2. A campfire shall:
  - a) be contained within an area established for such purpose; and
  - b) be set on and be ringed by a non-combustible material, separated from grass and any other vegetation or combustible material by a distance of at least 50cm (18

- in) by means of clean earth, sand, gravel or other non-combustible medium; and
  - c) be at a minimum of 5m (15 ft) from any property line, building, deck, porch, tree, shrub, etc. (including the 5m (15 ft) diameter in the airspace above the campfire).
- 3.3. A fire pit shall:
- a) be equipped and used with a spark arresting heavy metal screen which completely covers the burning area and all burning/burnt material with openings no bigger than 1.3cm (0.5 in) designed to stop sparks and embers from leaving the burn area; and
  - b) be resting on/in and ringed by a non-combustible material, separated from grass and any other vegetation or combustible material by a distance of at least 50cm (18 in) by means of clean earth, sand, gravel or other non-combustible medium; and
  - c) be at a minimum of 3m (10ft) from any property line, building, deck, porch, tree, shrub, etc. (including the 3m (10ft) diameter in the airspace above the fire pit).
- 3.4. An open-air fire (excluding a campfire) shall be a minimum of 10m (30ft) from any property line, building, deck, tree, shrub, etc. (including the airspace above the open-air fire that equals the size of the burn pile).
- 3.5. An outdoor fireplace shall:
- a) be equipped and used with a spark arresting heavy metal screen which completely covers the burning area and all burning/burnt material with openings no bigger than 1.3cm (0.5 in) designed to stop sparks and embers from leaving the burn area; and
  - b) be set on and ringed by a non-combustible material, separated from grass and any other vegetation or combustible material by a distance of at least 50cm (18 in) by means of clean earth, sand, gravel or other non-combustible medium; and
  - c) be at a minimum of 3m (10ft) from any property line, building, deck, porch, tree, shrub, etc. (including the 3m (10ft) diameter in the airspace above the outdoor fireplace).

#### 4. General prohibitions

- 4.1 No person shall set or maintain a fire, including an open-air fire, between dusk and dawn except for a burn barrel,

- barbeque, campfire, fire pit and an outdoor fireplace.
- 4.2 No person shall set or maintain a fire, including an open-air fire for the purpose of burning compost or toxic material.
  - 4.3 No person shall set or maintain a fire of any kind unless it is competently supervised at all times.
  - 4.4 No person shall place into a fire, or otherwise allow the burning of compost, plastic, rubber, or other toxic materials.
  - 4.5 No person shall set or maintain a fire, including an open-air fire for the purpose of burning leaves, grass, hay, or any other debris from land clearing activities.
  - 4.6 No person shall set or maintain a fire in the open air so as to cause nuisance smoke to neighboring properties or highways.
  - 4.7 No person shall set or maintain an open-air fire which includes a campfire when a fire ban on open air fires has been issued by the Fire Chief.
  - 4.8 No person shall set or maintain a fire of any kind, including wood burning barbeques, burn barrels, fire pits, outdoor fireplaces, or any other type of open-air fire when a total fire ban has been issued by the Fire Chief.

## 5. Restricted areas

- 5.1 No person shall set or maintain an open-air fire which includes a campfire or set a fire in a burn barrel within the limits of an urban area, except for a propane or natural gas outdoor fireplace approved and bearing the Canadian Safety Association or Underwriters Laboratories of Canada marking, or a fire for which a special permit is issued under this by-law;

- a) Section 5.1. shall not apply to properties or lots abutting a waterbody.

- 5.2 No person shall:
  - a) set or maintain a fire in a fire pit or outdoor fireplace within 30m(100ft) from woodlands; or
  - b) set or maintain a fire in a burn barrel, an open-air fire, or any other fire within 100m (300ft) from woodlands.

If the ground is completely snow covered, the distances referred to in this sections 5.2 a) and 5.3 b) shall be reduced to 15m (50ft) from woodlands.

## 6. Exemption – permit not required

- 6.1 No permit shall be required for the following:

- a) the use of a barbecue as defined, for the sole purpose of cooking food, provided the barbecue is supervised at all times while lit and is placed a minimum of 1m (3ft) from any structure (excluding a deck or porch);
- b) the use of an outdoor propane or natural gas fireplace, approved and bearing the Canadian Safety Association or Underwriters Laboratories of Canada marking and be located a minimum of 1m (3ft) from any property line, building, deck, porch, tree, shrub, etc.;
- c) for training and educational purposes conducted by the City's fire department; and
- d) for fires related to City municipal operations.

## 7. Obstruction

- 7.1 No person shall obstruct, hinder, or interfere with the Fire Chief or a Municipal Law Enforcement Officer in the lawful performance of their duties.
- 7.2 No permit holder shall:
  - a) fail or refuse to produce the permit upon demand; or
  - b) use the permit to set and/or maintain a type of open-air fire other than the type allowed by the type of permit in their possession.
- 7.3 If any person or permit holder contravenes any provisions of this by-law, the Fire Department may enter upon any land to extinguish the fire. The City may recover expenses for extinguishing such fire in conformance with the current municipal User Fee bylaw, as amended.

## 8. Applications

- 8.1. No person shall be deemed to have been issued a permit until the Fire Chief has issued the permit.
- 8.2. Every permit issued under this by-law shall remain the property of the City and such permit is not transferable to any other person or property.
- 8.3. No person shall give false or incorrect information for the purpose of obtaining a permit.
- 8.4. The onus of procuring a permit shall be that of the person requiring a permit.

## 9. Conditions for issuance of a permit

- 9.1. A fire permit shall be issued when the Fire Chief is satisfied of the following:
  - a) That the fire will be controlled by the permit holder at

- all times;
  - b) That the proposed fire complies with the requirements set out in this by-law;
  - c) That firefighting equipment to control fire, such as a rake, shovel or water is immediately available on site;
  - d) That the burning material will not cause excessive smoke or fumes; and
  - e) That the applicant has duly paid the permit fee as prescribed in the current City of Clarence-Rockland's User Fee By-law.
- 9.2 A special occasion permit may be issued for proposed fires that may deviate from the requirements of this by-law, for a specific date or a determined period, if the Fire Chief is satisfied of the following:
- a) That the applicant possesses a valid Fire Permit;
  - b) That an inspection of the proposed location and circumstance of the fire reveals that the proposed fire will not cause any undue fire hazard;
  - c) That appropriate restrictions have been imposed as a condition to the permit, including but not limited to, time of day, size of fire area, requirements for fire control, as may be warranted in order to reduce any potential fire risk;
  - d) That the applicant who has applied for more than three (3) special permits in the current calendar year, has duly paid a special inspection fee as prescribed in the current City of Clarence-Rockland's User Fee By-law.
- 9.3 A permanent fire permit for a fire pit or outdoor fireplace may be issued if the Fire Chief is satisfied of the following:
- a) That the applicant has duly paid a special inspection fee as prescribed in the current City of Clarence-Rockland's User Fee By-law;
  - b) That the inspection of the property provides that all requirements under this by-law are met and will continue to be met for the duration of the permit.
- 9.4. A permanent fire permit, as issued, shall remain with the permit holder and shall not be transferable to a new owner or tenant of the affected property.
- 9.5. Every permit holder shall contact the Open-Air Fire phone line as indicated on their permit or register their intention on setting an open-air fire by logging in their burnpermits.com account. before setting an open air, fire and must follow the instructions provided.
- 9.6 Every permit holder shall consent to having their contact

phone numbers entered into a mass notification system maintained by the City for the purpose of advising permit holders of fire bans, and/or total fire bans. It shall remain the responsibility of the permit holder to be aware at all times as to whether a fire ban is in place prior to setting a fire of any kind.

- 9.7 The applicant shall indemnify and save harmless the City of Clarence- Rockland from any and all claims, demands, causes of action, losses, costs, or damages that the City of Clarence-Rockland may suffer, incur or be liable for resulting from a fire, including open air fires as set out in the by-law whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors, and agents.

## 10. Suspension/revocation

- 10.1 The Fire Chief may, by notice, suspend any burning at any given time due to adverse weather condition that may increase fire hazards.
- 10.2 The Municipal Law Enforcement Officer or the Fire Chief or their designate may revoke or suspend any or each of the permits issued to any person for cause and without limiting the generality of the foregoing for:
- a) a breach of the law; or
  - b) any violation of the provisions of this by-law.
- 10.3. The provisions of Section 36 may be exercised in addition to any prosecution or other legal action.

## 11. Enforcement

- 11.1. The provisions of this By-law shall be enforced by the Fire Chief, or other individual duly appointed for the purpose of enforcing this By-law.
- 11.2. The Fire Chief may carry out an inspection to determine if the provisions of this Bylaw are being complied and shall have the right to enter lands pursuant to the Municipal Act, 2001.

## 12. Offence and penalties

- 12.1. Any person who contravenes any provision of this By-law shall be liable to pay the City an Administrative Monetary Penalty, upon issuance of a penalty notice in accordance with the City of Clarence-Rockland Administrative Monetary Penalties System (AMPS) By-law, as may be amended from time to time.
- 12.2. Any person who contravenes any provisions of this by-law is guilty of an offence and upon conviction shall forfeit and pay a penalty as

provided for in the Provincial Offences Act, R.S.O. 1990, Chapter P.33 and amendments thereto;

12.3. Each day that a person contravenes with the provisions of this By-law, may constitute a separate offence.

### 13. Severability

13.1. If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal, inoperative, or ultra vires, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

### 15. Order Prohibiting

15.1. When a person has been convicted of an offence under the provisions of this By-law, any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act by person convicted directed towards the continuation or repetition of the offence.

### 16. Short Title

16.1. This By-law may be referred to as the "Open Air Burning By-law".

### 17. Amendment to AMPS By-law No. 2022-33

17.1. That By-Law No. 2022-33 be amended in order to add Schedule A-5, being the Administrative Monetary Penalty System (AMPS) Penalty Schedule for Open Air Fires By-Law.

### 18. Repeal

18.1. That By-law No. 2017-92 is hereby repealed on the date this By-law comes in force and effect.

### 19. Effective date

19.1. This By-law shall take effect on July 5, 2022.

Read, passed, and adopted in open council this 20<sup>th</sup> day of June 2022.

Mario Zanth, Mayor

Monique Ouellet, Clerk