

# THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

## BY-LAW NUMBER 2016-139

### BEING A BY-LAW TO REGULATE THE SETTING OF FIRES IN OPEN AIR.

**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, 1997, S.O. 1997, c.4, 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, S.O. 2001, c.25, 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:

#### **DEFINITIONS**

1.
  - (a) **"Applicant"** means the person making an application for a permit under this by-law
  - (b) **"Barbecue"** means a portable or fixed device designed and intended solely for the cooking of food in the open air, but does not include outdoor fireplaces and campfires.
  - (c) **"Campfire"** means an open air fire where the size of the material to be burned does not exceed 60 cm in width and 50 cm in height, that is set and maintained solely for the purposes of cooking food, providing warmth and recreational enjoyment;
  - (d) **"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.

- (e) **"Corporation"** means the Corporation of the City of Clarence-Rockland.
- (f) **"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.
- (g) **"Fire Department"** means the Fire Department for the Corporation of the City of Clarence-Rockland.
- (h) **"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.
- (i) **"Land Clearing materials"** means trees, roots, stumps and dirt resulting from the clearing of lands covering an area of 0.5 hectare or more.
- (j) **"Maintain"** means to allow an open air fire to continue to burn and **"maintained"** and **"maintaining"** have corresponding meaning;
- (k) **"Municipal Law Enforcement Officer"** means the officer appointed to enforce the provisions of this by-law by virtue of Section 15 of the Police Services Act, R.S.O. 1990, Chapter P.15, as amended.
- (l) **"Open air fire"** means the burning of material such as wood, tree limbs and branches up to 1.2 meters in length where the flame is not wholly contained and includes campfires, outdoor fireplaces and chimnea but does not include barbecues;
- (m) **"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 1m in any direction and includes, but is not limited to a chimnea;
- (n) **"Permit"** means a burning permit issued under this by-law which grants a privilege to set a fire in the open air.
- (o) **"Permit Holder"** means the person to whom a burning permit is issued.
- (p) **"Set"** means to light an open air fire and "setting" has the corresponding meaning;

- (q) **"Urban Area"** means the area contained in the urban area of Rockland, as set out in Schedule "A" of this Bylaw.
- (r) **"Waterbody"** means a natural bay, lake, watercourse or canal other than a drainage or irrigation channel.
- (s) **"Woodlands"** means land as specified in accordance with the Forestry Act, R.S.O. 1990 C.F.26

### **GENERAL INTERPRETATION**

- 2. No person shall set or maintain a fire in open air without having obtained a permit issued by the Fire Chief.
- 3. The Fire Chief is hereby responsible and authorized to:
  - (a) issue permits as provided in this by-law;
  - (b) sign all permits on behalf of the Corporation;
  - (c) limit the time for which a permit is issued to a maximum of one year;
  - (d) undertake any investigation or inspection for the purpose of administering this by-law; and
  - (e) advise the applicant of any additional precaution to be taken in order to keep the fire under control at all times.
- 4. The permit referred to in this by-law is to grant, to an applicant, the permission to set a fire in the open air.
- 5. The Fire Chief shall evaluate an application and may require that the applicant provide a bond or other security sufficient to cover the cost of extinguishing such fire.
- 6. The Fire Chief shall report to the Municipal Law Enforcement Officer any breach of the law by any person.
- 7. The Fire Chief or the Municipal Law Enforcement Officer may:
  - (a) demand the burning permit for inspection from any permit holder;

- (b) inspect any premises for which a burning permit has been issued; 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.

### **GENERAL PROHIBITION**

- 8. No person shall set or maintain a fire in the open air between dusk and dawn except for a campfire and an outdoor fireplace.
- 9. No person shall set or maintain a fire in the open air for the purpose of burning compost or toxic material, leaves, grass, hay, tree stumps, roots or any other debris from land clearing activities.
- 10. No person shall set or maintain a fire in the open air so as to cause smoke to neighboring properties or highways.
- 11. No person shall set or maintain an open air fire when a fire ban on open air fire has been issued by the Fire Chief.

### **RESTRICTED AREAS**

- 12. No person shall set or maintain a fire in the open air within the limits of an urban area as set out in schedule "A" of this By-law, except for propane or natural gas outdoor fire place approved and bearing the Canadian Safety Association or Underwriters Laboratories of Canada marking or for which a special permit is issued under Section 24 of this by-law.
- 13. Section 12 of this by-law shall not apply to properties or lots abutting a waterbody.
- 14. With the exception of snow covered ground conditions or the use of an outdoor fireplace, no person shall set or maintain a fire in the open air within 150 meters from woodlands.

### **EXEMPTION – PERMIT NOT REQUIRED**

- 15. No permit shall be required for the following;

- a) barbecue as defined for the sole purpose of cooking food;
- 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 no closer than (3) meters of any structure.
- c) for training and educational purposes conducted by the City's fire department; and
- d) any open air fire related to City municipal operations.

### **OBSTRUCTION**

- 16. No person shall obstruct, hinder or interfere with the Fire Chief or the Municipal Law Enforcement Officer in the lawful performance of their duties.
- 17. No permit holder shall:
  - (a) fail or refuse to produce the permit upon demand; or
  - (b) use the permit to burn material other than the item for which the permit was issued.
- 18. 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 Corporation may recover expenses for extinguishing such fire in conformance with the current municipal User Fee bylaw, as amended.

### **APPLICATIONS**

- 19. No person shall be deemed to have been issued a permit until the Fire Chief has issued the permit.
- 20. 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.
- 21. No person shall give false or incorrect information for the purpose of obtaining a permit.

22. The onus of procuring a permit shall be that of the person requiring a permit.

### **CONDITIONS FOR ISSUANCE OF A PERMIT**

23. The fire permit shall be issued when the Fire Chief is satisfied of the following:
- (a) the fire will be controlled by the permit holder at all times;
  - (b) the fire will be at least 7.5 meters from the nearest structure or dwelling;
  - (c) firefighting equipment to control fire, such as a rake, shovel or water is immediately available on site;
  - (d) with the exception of snow covered ground conditions, the fire will be at least 150 meters from woodlands,
  - (e) the burning material will not cause excessive smoke or fumes; and
  - (f) the applicant has duly paid the permit fee as prescribed in the current City of Clarence-Rockland's User Fee By-law.
24. Special permits may be approved for properties which are located within the limits of a restricted area, as defined in section 12 of this by-law, provided the Fire Chief is satisfied that the open air fire will not cause any fire hazard and that the provisions set out in Section 23 of this by-law are respected. Such permits shall be for a specific date or period only.
25. Every permit holder shall contact the Ottawa Fire Service open air permit line (613-580-2880) before setting a fire.
26. 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 the 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.

## **SUSPENSION / REVOCATION**

27. The Fire Chief may, by notice, suspend any open air burning at any given time due to adverse weather condition that may increase fire hazards.
28. The Municipal Law Enforcement Officer or the Fire Chief 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.
29. The provisions of Section 28 may be exercised in addition to any prosecution or other legal action.

## **SEVERABILITY**

30. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part thereof shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.

## **PENALTIES**


31. 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.
32. In addition to imposing a fine, a court of competent jurisdiction may, upon conviction of an offence under this by-law, issue an order prohibiting the continuation or repetition of the violation by the person convicted.
33. Any person who contravenes any provisions of this bylaw may be subject to additional fees as set out in the current municipal User Fee bylaw, as amended

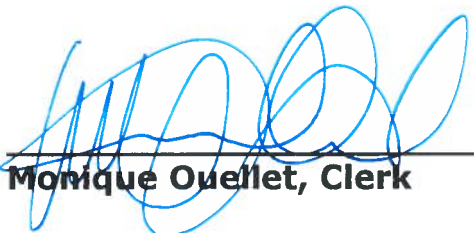
**BY-LAW REPEALED**

34. By-law Number 2015-178 and any amendments made hereto are hereby repealed.

34. This By-law shall take effect on the 1<sup>st</sup> day of January 2017.

**READ, DONE AND PASSED IN OPEN COUNCIL, THIS 19<sup>th</sup> DAY OF DECEMBER 2016.**

  
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**Guy Desjardins, Mayor**

  
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**Monique Ouellet, Clerk**







**PROVINCIAL OFFENCES ACT**

**Part I**

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2016-139 of the Corporation of the City of Clarence-Rockland attached hereto is the set fine for that offence. This Order is to take effect on May 8<sup>th</sup>, 2017.

Dated at Ottawa this 8<sup>th</sup> day of May 2017.



.....  
Jean G. Legault, Regional Senior Justice  
Ontario Court of Justice  
East Region



**SCHEDULE "B"**  
**By-Law Number 2016-139**

**City of Clarence-Rockland**

**BY-LAW NUMBER 2016-139**  
**TITLE : Open Air Fire**  
**Set Fines for Uses Part I Provincial Offences Act**

<b>ITEMS</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision Creating or Defining Offence</b>	<b>COLUMN 3 Set Fine</b>
1	Set a fire in the open air without a permit issued by Fire Chief	Section 2.	\$250.00
2.	Maintain a fire in the open air without a permit issued by Fire Chief	Section 2.	\$250.00
3.	Set a fire in the open air between dusk and dawn	Section 8.	\$250.00
4.	Maintain a fire in the open air between dusk and dawn	Section 8.	\$250.00
5.	Set a fire in the open air burning (compost, toxic material, leaves, grass, hay, tree stumps, branches, tree trunk or any other debris from land clearing activities)	Section 9.	\$250.00
6.	Maintain a fire in the open air burning (compost, toxic material, leaves, grass, hay, tree stumps, branches, tree trunk or any other	Section 9.	\$250.00

*BE*

**NOTE: The general penalty provision for the offences listed above is section 31 of By-law 2016-139 a certified copy of which has been filed**

*Approved  
 [Signature]  
 Mayor*



**SCHEDULE "B"**

**City of Clarence-Rockland**

**BY-LAW NUMBER 2016-139**

**TITLE : Open Air Fire**

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<b>ITEMS</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision Creating or Defining Offence</b>	<b>COLUMN 3 Set Fine</b>
	debris from land clearing activities)		
7.	Set a fire in the open air causing smoke onto neighboring property or highways	Section 10.	\$250.00
8.	Maintain a fire in the open air causing smoke onto neighboring property or highways	Section 10.	\$250.00
9.	Set a fire in the open air during a fire ban issued by the Fire Chief	Section 11.	\$250.00
10.	Maintain a fire in the open air during a fire ban issued by the Fire Chief	Section 11.	\$250.00
11.	Set a fire in the open air within the limits of an (urban area)	Section 12.	\$250.00
12.	Maintain a fire in the open air within the limits of an (urban area)	Section 12.	\$250.00

**NOTE: The general penalty provision for the offences listed above is section 31 of By-law 2016-139 a certified copy of which has been filed**





**SCHEDULE "B"**

**City of Clarence-Rockland**

**BY-LAW NUMBER 2016-139**

**TITLE : Open Air Fire**

**Set Fines for Uses Part I Provincial Offences Act**

<b>ITEMS</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision Creating or Defining Offence</b>	<b>COLUMN 3 Set Fine</b>
13.	Being a permit holder (fail/refuse) to produce permit	Section 17. a)	\$250.00
14.	Being a permit holder burning material other than items for which permit was issued.	Section 17. b)	\$250.00
15.	Burning land clearing materials.	Section 9	\$ 250.00
16.	Set a fire in the open air within the 300 meters from woodlands	Section 14	\$250.00
17	Maintain a fire in the open air within the 300 meters from woodlands	Section 14	\$250.00

*[Handwritten Signature]*

*Approved  
April 27  
[Handwritten Signature]*

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