

**THE CORPORATION OF THE COUNTY OF PRINCE EDWARD**

**BY-LAW NO. 77-2021**

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**A BY-LAW TO REGULATE AND CONTROL OPEN AIR BURNING UNDER THE  
JURISDICTION OF THE COUNTY OF PRINCE EDWARD**  
("Open Air Burning By-law")

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**WHEREAS** Subsection 7.1 (1) of the Fire Protection and Prevention Act, 1997, S .O. 1997, c.4, as amended, authorizes the council of a municipality 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** Section 10 of the Municipal Act, 2001, S.O. 2001, c.25, allows the municipality to regulate matters related to the health, safety and well being of the inhabitants of the municipality;

**AND WHEREAS** the regulation of open air burning is important for the health, safety and well-being of persons and property;

**AND WHEREAS** the Council of the Corporation of the County of Prince Edward deems it advisable to enact such a by-law;

**NOW THEREFORE** the Council of The Corporation of the County of Prince Edward hereby enacts as follows;

**1. DEFINITIONS**

"**Balcony**" means a platform projecting from a wall of a multiple dwelling unit;

"**Brush fire**" means a fire set for the purposes of burning brush, grass vegetation or leaf type material only;

"**Burn permit**" means a burn permit that is issued in accordance with this By-law to permit the starting, setting and maintaining of fires;

"**Burn barrel**" means a steel container similar in construction and with a volume no greater than 200 gallons;

"**Campfire**" means a fire intended for and used for the purposes of recreation, cooking or warmth only and for no other purpose;

"**Campground**" means an approved campground such as a provincial park, or a tourist camp or trailer camp, which is recognized by the Corporation of the County of Prince Edward;

"**Outdoor fireplace**" means steel firebox with a screened opening and/or clay firepots with a small opening and short vent stack and are used for small fires and for no other purpose;

**"Fire"** means a fire in the open air, or contained within a device or appliance, outdoors;

**"Fire Chief"** means the Fire Chief of The Corporation of Prince Edward County and includes his or her duly authorized designate;

**"Owner"** includes the person who is shown as owner of a property in the records of the Land Registry Office, a trustee acting on behalf of the registered owner, the estate trustee of a registered owner, a person with a leasehold interest in the land and an authorized representative of a corporate registered owner; and

**"Property"** includes buildings or part of buildings, and includes the lands appurtenant thereto and all mobile homes, mobile buildings or mobile structures and vacant land.

## **2. APPLICATION**

2.1 This By-law applies within the geographic limits of the Prince Edward County

2.2 This By-law does not apply to a person who sets a fire:

(a) in an incinerator operated in accordance with the Certificate of Approval issued pursuant to the Environmental Protection Act, R. S.O. 1990, c. E. 19 and regulations thereunder; or

(b) in a device which has been installed outside of a building which meets each of the following conditions:

(i) the device is designed for and used as a source of heat or power for the building or is designed for and used for a purpose ancillary to a manufacturing process;

(ii) the device is certified for use for a purpose described in paragraph 4(b) (i) by a recognized agency mandated in past for that purpose;

(iii) the certification of the device is produced upon request of a By-law Enforcement Officer or the Fire Chief; and

(iv) the device is in good working order.

## **3. PERMITTED FIRES**

3.1 For the purposes of this By-law, a permitted fire is a fire:

(a) in a burn barrel, authorized by a burn permit and which is in accordance with conditions stipulated in this By-law for fire in a burn barrel;

(b) which is a campfire, authorized by a burn permit and which is in accordance with conditions stipulated in this By-law for campfires;

(c) in an outdoor fireplace, authorized by a burn permit and which is in accordance with conditions stipulated in this By-law for outdoor fireplaces; or

(e) which is a brush fire, authorized by a burn permit and which is in accordance with conditions stipulated in this By-law for brush fires.

**4. PROHIBITION – OPEN AIR BURNING**

- 4.1 No person shall start, set or maintain a fire on any property unless;
- (a) a permit has been issued by the Fire Chief in accordance with this By-law;
  - (b) that person complies with all applicable conditions specified in this By-law;
  - (c) that person has first notified the Fire Dispatching Office prior to starting, setting and maintaining a fire; and
  - (d) that person has provided the Fire Dispatching Office with such information as may be requested.

**5. CONSENT OF A REGISTERED OWNER**

- 5.1 No person shall start, set or maintain a fire on any property unless:
- (a) that person is the owner of the property or written permission from the owner has been obtained; and
  - (b) at least one owner of the property or his or her authorized designate is present.
- 5.2 No person shall authorize or permit a person to start, set or maintain a fire on his or her property unless such person has the capability to control the fire and prevent its spread.
- (a) Any person(s), having the written consent of a registered owner to start, set or maintain permitted fire on the property of the registered owner, shall:
  - (b) keep the written consent at the location of the fire; and
  - (c) produce the written consent upon request by the Fire Chief or his or her designate.

**6. PERSON IN CHARGE**

- 6.1 No person, having started or set a fire, or being left in charge of a fire, shall leave another person in charge of the fire unless such person is capable of controlling the fire and agrees to comply with all the requirements of this By-law.
- 6.2 No person in charge of a fire shall fail to take all necessary steps to control the fire, prevent its spread and fully extinguish the fire prior to leaving the site.

**7. PROHIBITED MATERIALS FOR BURNING**

- 7.1 No person shall burn or permit to be burned:
- (a) garbage; or
  - (b) materials made of or containing rubber; or
  - (c) plastic; or

- (d) tar; or
- (e) pressure treated or painted lumber

**8. PROHIBITED CONDITIONS**

- 8.1 No person shall start, set or maintain a fire where:
- (a) a decrease in visibility on any highway or roadway may result from smoke;
  - (b) inconvenience or irritation may be caused to others from smoke or flames;
  - (c) the spread of the fire due to the proximity of any combustible material including grass or other vegetation may occur;
  - (d) the endangerment of property or persons may occur; or
  - (e) wind speed exceeds 30kph.

**9. FIRE IN A BURN BARREL**

- 9.1 No person shall start, set or maintain a fire in a burn barrel without a valid burn permit issued in accordance with this By-law;
- 9.2 No person shall fail to ensure all of the following conditions are met for starting, setting or maintaining a fire in a burn barrel:
- (a) The burn barrel is in good condition;
  - (b) The burn barrel is situated securely on level ground;
  - (c) The burn barrel is located at least eight (8) metres from any buildings;
  - (d) The burn barrel is located at least eight (8) metres from any forest or woodland; and
  - (e) The burn barrel is located at least five 5 metres from the property line;
  - (f) all openings in the burn barrel are entirely covered by metal wire mesh with grid openings of not more than 12 mm in diameter;
  - (g) only grass, leaves, brush, cardboard, papers, wood or wood by-products are burned in the burn barrel; and
  - (h) the fire is set and maintained in the burn barrel only during the time falling between one half hour before sunrise and one half hour after sunset, unless the prior written consent of the Fire Chief to set or maintain the fire in the burn barrel during any other time is obtained.

**10. RESIDENTIAL CAMPFIRES**

10.1 No person shall start, set or maintain a campfire without a valid burn permit issued in accordance with this By-law.

10.2 No person shall fail to ensure all of the following conditions are met for starting, setting or maintaining a campfire:

(a) the campfire is contained within an area completely surrounded by a non-combustible barrier of metal, masonry, ceramic or stone or is contained within a pit in the ground;

(b) the diameter of the campfire containment area does not exceed 110 centimetres;

(c) the campfire is located at least:

(d) eight (8) metres from any buildings; and

(e) eight (8) metres from any forest or woodland;

(f) five (5) metres from the property line

(g) the material burned in the campfire is in a single pile that is less than 66 centimetres (26 inches) in height;

(h) the campfire has tools or water available to adequately contain the fire within the campfire area; and

(i) in the case of a campfire set in a location other than in an approved campground, the campfire is maintained only during the time falling between one hour before sunset and one hour after sunrise of the following day.

**11. CAMPGROUND CAMPFIRES**

11.1 Sections 4 (c) and 4 (d) do not apply to campground fires provided the owner/operator/supervisor is in attendance. These identified persons shall be responsible for regulating, monitoring and enforcement of campfires within the campgrounds.

**12. FIRE IN AN OUTDOOR FIREPLACE**

12.1 No person shall start, set or maintain a fire in an outdoor fireplace without a valid burn permit issued in accordance with this By-law.

12.2 No person shall fail to ensure all of the following conditions are met for starting, setting or maintaining a fire in an outdoor fireplace:

(a) the outdoor fireplace is not located on a balcony;

(b) the outdoor fireplace is not located on any combustible surface;

(c) the outdoor fireplace is in good working order;

(d) the outdoor fireplace is located at least three (3) metres from any building or structure;

(e) the outdoor fireplace is located at least three (3) metres from any forest or woodland;

(f) the outdoor fireplace is located at least five (5) metres from the property line;

(g) all openings in the outdoor fireplace are completely covered by metal wire mesh with grid openings no larger than 12 millimetres in diameter;

(h) the fire is confined to the outdoor fireplace; and

(i) only clean dry wood or charcoal is burned in the outdoor fireplace.

### **13. BRUSH FIRE**

13.1 No person shall start, set or maintain a brush fire without a valid burn permit issued in accordance with this By-law;

13.2 No person shall fail to meet the following conditions for starting, setting or maintaining a brush fire:

(a) the fire is set and maintained at a distance of no less than twenty-five (25) metres, or such greater distance as may be specified in the burn permit, from:

(b) the nearest building or other combustible structure; and

(c) any overhead wires; and

(d) is located at least five (5) metres from the property line

(e) the materials to be burned in a fire in a County owned landfill site or on a farm operation do not exceed eight (8) metres in length, eight (8) metres in width, and eight (8) metres in height; and do not exceed three (3) metres in length, three (3) metres in width, and three (3) metres in height for fires in all other locations;

(f) the fire is not set or maintained except during the time between one half hour before sunrise and one half hour after sunset;

(g) the necessary means are immediately available at the site of the fire to:

(h) extinguish the fire;

(i) limit its spread; and

(j) summon County fire department; and

(k) the fire is compliant with all conditions and restrictions imposed by the burn permit or imposed as a result of a fire prevention inspection conducted by the Fire Chief and or designate.

**14. OPEN AIR BURNING RESTRICTIONS ON MUNICIPAL PROPERTY**

- 14.1 Open air burning using charcoal and firewood is prohibited at all times in recreational parks, unless permission has been granted from the municipality;
- 14.2 Open air burning using any cooking equipment is prohibited at the Wellington Rotary Beach at all times, with the exception of food trucks or other operators who have been granted permission from the municipality.

**15. BURN PERMITS**

- 15.1. No burn permit issued under this By-law may be transferred or assigned.
- 15.2 No person shall enjoy a vested right in the continuance of any burn permit.
- 15.3 A burn permit remains the property of the County of Prince Edward at all times.
- 15.4 A burn permit shall be valid only for the period of time for which it was issued and shall expire on the date or in the manner specified in the burn permit.
- 15.5. No person holding a burn permit shall start, set or maintain a fire under the authority of the burn permit, except in accordance with the terms and conditions of this By-law.
- 15.6 No holder of a burn permit shall fail to keep the burn permit at the site of the fire authorized by the burn permit.
- 15.7 No holder of a burn permit shall fail to produce the burn permit for examination upon request by the Fire Chief or his or her designate.
- 15.8. The Fire Chief or his or her designate, may at any time, in his or her sole discretion, revoke any burn permit if he or she reasonably believes that:
  - (a) any of the information in the application or supporting documentation or materials is not accurate;
  - (b) a term or condition of the burn permit is not being observed;
  - (c) the fire will not be or is not being conducted in a fashion which observes all reasonable safety precautions or is otherwise a risk to person or property; or
  - (d) there are any other grounds to terminate the burn permit, which the Fire Chief in his or her sole discretion considers sufficient in the circumstances.
- 15.9 The fees for burn permits shall be as set out in Schedule "A", which forms a part of this by-law.

**16. ENFORCEMENT**

- 16.1. No person shall obstruct, hinder or in any way interfere with any person designated to enforce this By-law.
- 16.2. The Fire Chief or designate may, at all reasonable times enter upon and inspect any property to determine if there is a contravention of this By-law and to enforce or carry into effect the provisions of this By-law.

**17. EXTINGUISHING ANY FIRE**

- 17.1 The Fire Chief or designate may direct a person to extinguish any fire where, in his or her opinion, there is a contravention of this By-law.
- 17.2 Where any action taken by any person in extinguishing any fire pursuant to the direction of the Fire Chief or designate, is, in the opinion of the Fire Chief or designate not adequate, the Fire Chief or designate may take such action as he or she considers necessary to control and extinguish the fire.

**18. COST OF ACTION REGARDING FIRE**

- 18.1 Any and all costs and expenses of any action by the County of Prince Edward with respect to controlling or extinguishing a fire that is caused by, or results from, the conduct of a person acting contrary to this By-law; or is caused by or results from a person disobeying or refusing or neglecting to carry out any of the provisions of this By-law, are payable by that person to the County of Prince Edward on the date specified in the request for payment and if not paid on the date specified, such costs and expenses together with costs of collection, including legal fees and disbursements, are recoverable as a debt due to the County by any remedy or procedure available to The County by By-law, and may be recovered in a like manner as taxes.
- 18.2 In the event that the County has paid or is liable to pay the Crown in Right of Ontario, represented by the Minister of Natural Resources or any other body for costs and expenses incurred by that body for controlling or extinguishing a fire that is caused by or results from the conduct of a person acting contrary to this By-law, or that is caused by or results from a person disobeying or refusing or neglecting to carry out any of the provisions of this By-law, such cost and expenses are payable by that person to the County on the date specified in the request for payment and if not paid, such costs and expenses together with costs of collection, including legal fees and disbursements, are recoverable as a debt due to the County by any remedy or procedure available to the County by law, and may be recovered in a like manner as taxes.

**19. CIVIL ACTION**

- 19.1. Nothing in this By-law affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire.

**20. OFFENCE**

- 20.1. Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided in the Provincial Offences Act, R.S.O. 1990, c.P.33 as amended or any successor legislation thereto.
- 20.2. If any term or provision of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such term or provision to all persons other than those to whom it was held to be invalid or unenforceable, shall not be affected thereby and each term and provision of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.

**21. ADMINISTRATION**

21.1. The Fire Chief shall be responsible for the administration of this By-law. The Fire Chief and any persons who are appointed as his or her designate for the County of Prince Edward are all deemed appointed and entitled to enforce the provisions of this By-law.

**22. EFFECTIVE DATE**

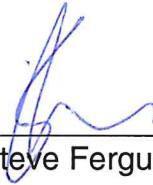
1. **THAT** By-laws 2105-2008 and 2543-2009 hereby be rescinded.
2. **THAT** this By-law shall come into force and take effect on the date of its passing.

Read a first, second and third time and finally passed this 27<sup>th</sup> day of April, 2021.



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Chad Curtis, **CLERK**



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Steve Ferguson, **MAYOR**



**Schedule 'A' to By-law 77-2021**

Burn Permit Fees

**Burn Permits**

**\$20.00**

(Burn Permits are effective from date of issue to December 31st of the year issued)