

THE CORPORATION OF THE VILLAGE OF POINT EDWARD
BY-LAW NUMBER 28 of 2015

BEING A BY-LAW TO REGULATE
THE ESTABLISHMENT OF OPEN AIR BURNING

WHEREAS the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4, Section 7(1) 1(a) (b), as amended states that a council of a municipality may pass by-laws regulating fire prevention, including the prevention of the spreading of fires, and regulating the settling of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 2.6.3.4 of the Ontario Fire Code provides for the Prohibition of open air burning unless approved or unless such open air burning consists of the use of a barbeque to cook food, provided such devices contain a small contained fire which is supervised at all times;

AND WHEREAS Section 5 (3) of the Municipal Act allows Councils of Municipalities to pass by-laws;

AND WHEREAS the Council of the Village of Point Edward deems is appropriate to enact a by-law to regulate open air burning;

NOW THEREFORE the Council of the Corporation of the Village of Point Edward hereby enacts as follows:

DEFINITIONS

“Acceptable Burn Materials” means commercially produced charcoal or Briquettes, small amounts of white or brown paper or cardboard used to start a fire, dry seasoned wood that has been generated on the landowners own property, dry wood by-products that have not been chemically treated, painted or stained, purchased fire logs or purchased firewood sold for the purpose of recreational campfires and not exceeding the maximum permitted Recreational Fire dimensions defined in this By-Law.

“Barbecue” means appliances including a Hibachi, a permanent structure and intended solely for the cooking of food in the open air, but does not include devised predominantly designed for personal warmth, fire pits or camp fires.

“Cooking Fire” means a small, confined fire supervised at all times and used to cook food on a grill or barbeque.

“Flying Lanterns” means a small paper hot air balloon, fuelled by open flame.

“High Risk Period” means any period of time, when due to extreme dry, high wind or other conditions, there is a higher than normal risk of unwanted spread of fire, as determined by the Ontario Fire Marshall, the Village of Point Edward Fire Chief, and Village of Point Edward Fire and Rescue identified as a High Risk Period.

“Village of Point Edward Fire Chief” means the Fire Chief of the Village of Point Edward and Point Edward Fire and Rescue for the Village of Point Edward and/or his or her designates.

“Open Air Burning” means a fire set in the Open Air.

“Open Fire” means an open fire other than that defined as a “Cooking Fire” or “Recreational Fire” under this By-Law.

“Poor Air Quality Day” means any period of time when a Poor Air Quality Advisory has been listed by Environment Canada or other recognized government health or meteorological agency.

“Prohibited Burn Materials” means any material other than as described under “Acceptable Burn Materials.” Specifically prohibited under this By-Law and not to be burned under any circumstances include household waste, human or animal excrement, leaves, grass, treated lumber, insulation, asphalt shingles or other construction materials, commercial by-products such as those generated from wood working, deck-building or landscaping businesses, tires, rubber, plastic, styrofoam, petroleum or other potentially toxic waste material.

“Recreational Fire” means a small outdoor fire such as a campfire set within a confined area or device such as an outdoor fireplace or fire pit, situated in a “Safe Location” and measuring no more than 0.76m (30”) in any dimension and supervised at all times.

“Restricted Area” means those lands within the Corporation of the Village of Point Edward other than those identified as residential in the Village Zoning By-law.

GENERAL PROVISIONS:

- 1). No person shall set or maintain a fire in contravention of the Ontario Fire Code, the Environmental Protection Act R.S.O 1990, Chapter E. 19, or any other statutory requirements of the Province of Ontario or the Dominion of Canada.
- 2). No person shall set a Recreational Fire or an Open Fire during a period identified as a Poor Air Quality Day or a High Risk Period.

- 3). No person shall set a Recreational Fire or an Open Fire as to have smoke or debris interfere with vehicular traffic or otherwise pose a safety hazard on a public roadway.
- 4). No person shall set a Recreational Fire or an Open Fire if the wind conditions or the quality of the burn restricts neighbours from enjoyment of the normal use of their property or causes discomfort to persons in the immediate area.
- 5). Cooking Fires may be permitted within Restricted Areas. Every person who sets a cooking fire shall comply with the following regulations:
 - a). The fire must be set in a Safe Location, on the landowners own property and contained within an appropriate device;
 - b). The fire must be fueled only with Acceptable Burn Materials;
 - c). The fire must be supervised at all times;
 - d). Effective means of extinguishment must be readily available, and
 - e). The fire must be fully extinguished before being left unsupervised;
 - f). Fire are allowed between 8 am and 12:00 am (midnight) in residential areas.
- 6). No person shall set an Open Fire in Restricted Areas as identified in Schedule "A" attached to this By-Law.
- 7). No person shall ignite or use a flying lantern.
- 8). No person shall set fires for training purposes or fire extinguisher safety demonstrations without the prior approval of the Village.
- 9). No person shall burn anything defined as Prohibited Material.
- 10). Open Fires are not permitted in the Village of Point Edward.
- 11). The restrictions contained within this by-law are also applicable to the use of enclosed heating devices and incinerating devices.

LIABILITY & ENFORCEMENT

The following Liability and Enforcement provisions shall apply to all Open Air Burning within the Corporation of the Village of Point Edward.

- 12). Where Open Air Burning is permitted under this By-Law, any person who starts fire Shall:
 - a). Take all reasonable steps to keep the fire under control including continuous supervision and ready access to effective means of extinguishment;
 - b). Extinguish the fire before leaving the site of the fire;
 - c). Be responsible for any damages to property or injury to persons that may result from the said fire;

- d). Be liable for costs incurred by the Corporation of the Village of Point Edward including personnel, equipment and apparatus necessarily called to investigate, respond or extinguish said fire;
- i. If said person who sets a fire is a tenant of the property then the Village will attempt to invoice the tenant if the tenant information is available.
 - ii. If payment is not received from the tenant, then the property owner is ultimately responsible for the charges and will be invoiced. Any unpaid amounts will be added to the tax roll and will be collected in the same manner as property taxes.
- 13). Any persons who contravenes any provision of this By-Law is guilty of an offence and is liable to a fine not exceeding \$5,000.00 under the Provincial Offences Act; and may also be liable for costs established under the By-Law to Establish Fees that being a By-Law to Establish Various Fees and Charges for Services provided by the Corporation of the Village of Point Edward.
- 14). Order to Extinguish unapproved fires:
- a. When made aware of a prohibited open air burning not authorized under this By-Law, a representative of the Village of Point Edward, including the Fire Chief or his representative, any officer of the Ontario Provincial Police, the Operations Manager of the Village or the Chief Administrative Officer of the Village shall order the land owner or occupant to immediately extinguish the fire.
 - b. The owner or occupant of land on which a prohibited open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the individuals listed in 14a above.
 - c. Should any land owner or occupant fail to extinguish open air burning when ordered to do so by the individuals listed in 14a above, the By-Law Enforcement Officer may take action to have the fire extinguished, and the person who owns or occupies the land on which the open burning is located shall be responsible for any and all costs incurred by the Village of Point Edward Fire and Rescue in its efforts to extinguish the fire as per the attached fee schedule.

THE CORPORATION OF THE VILLAGE OF POINT EDWARD
 BY-LAW 21 of 2015
 OPEN BURNING BY-LAW

SCHEDULE "A"
 SHORT FORM WORDING AND SET FINES
 PART 1 PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Burn on poor air quality day or high risk period	Sect 2	\$250.00
2.	Smoke or debris causing hazard on roadway	Sect 3	\$250.00
3.	Smoke causing loss of enjoyment to neighbouring properties	Sect 4	\$200.00
4.	Cooking fire not in safe location	Sect 5(a)	\$200.00
5.	Cooking fire fueled by prohibited burn materials	Sect 5 (b)	\$200.00
6.	Cooking fire left unsupervised	Sect 5 (c)	\$200.00
7.	Use a Flying Lanterns	Sect 7	\$200.00
8.	Cooking fire with no means of extinguishment	Sect 5 (d)	\$200.00
9.	Fail to extinguish cooking fire	Sect 5 (e)	\$200.00
10.	Open fire burning in restricted area	Sect 6	\$200.00
11.	Set fire for training purposes or demonstration without approval	Sect 7	\$200.00
12.	Burning prohibited	Sect 8	\$500.00

	material		
13.	Fail to obtain an Open Air Burning Permit	Sect 9 (a)	\$200.00
14.	Burning outside daylight hours	Sect 9 (b)	\$200.00
15.	Burning not on own property	Sect 9 (C)	\$200.00
16.	Burning fueled by prohibited burn materials	Sect 9 (d)	\$200.00
17.	Fail to supervise open fire in unrestricted area	Sect (e)	\$200.00
18.	Open fire with no means of extinguishment	Sect 9 (f)	\$200.00
19.	Fail to extinguish open fire in unrestricted area	Sect 9 (g)	\$300.00
20.	Burning of materials not generated on property	Sect 9 (h)	\$500.00

Note: The penalty provision(s) for the offence(s) indicated above is Section 15 of By-law Number 21 of 2015, a certified copy of which by-law has been filed.

d. Notwithstanding subsection 13, on the third attendance in any calendar year to a particular municipal address, the Village of Point Edward Fire Department shall immediately take whatever steps are necessary to extinguish a fire that is an open air burning found not to be in compliance with the By-Law. Upon verbal verification by the Village of Point Edward Fire Department that the fire is extinguished, the person who owns or occupies the property shall pay the fee in accordance with Schedule A included within this By-Law.

PROVINCIAL LEGISLATION

Nothing in this By-Law shall supersede or waive the requirements of any Provincial Legislation and/or Regulation.

PENALTY PROVISIONS

1. Any person who contravenes any portion of this By-Law is guilty of an offence and upon conviction for such contravention, shall forfeit and be liable to pay the set fine, plus costs incurred in enforcement, and costs associated therewith may be recovered under the provisions of the Provincial Offences Act R.S.O 1990, Chapter p-33, as amended.

THAT the short form title of this By-law shall be the **Open Air Burning By-Law**

THAT any By-Laws or provisions of By-Laws found to be inconsistent with the provisions found in this By-Law shall be and are hereby repealed including the Village of Point Edward By-Law 21 of 2007.

THAT this By-Law to go into force and effect upon the final passing thereof.

By-Law Read a First, Second and Third Time and finally passed this 28th day of July, 2015.

Mayor L. MacKenzie

Clerk J. Burns