

THE CORPORATION OF THE VILLAGE OF POINT EDWARD  
**BY-LAW NUMBER XX of 2023**

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 2.4.4.4 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”** includes the following:

- commercially produced charcoal or briquettes
- small amounts of white or brown paper or cardboard used to start a fire
- dry seasoned wood that has 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.

**“Cooking Appliance”** means appliances including a Hibachi, a permanent structure designed and intended solely for the cooking of food in the open air, a commercially produced smoker and a barbecue, but does not include appliances designed predominantly for personal warmth, fire pits or campfires.

**“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, or the Village of Point Edward Fire and Rescue.

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

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

**“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, yard waste, treated lumber, insulation, asphalt shingles or other construction materials, commercial by-products such as those generated from wood working, deckbuilding 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 0.91m (36”) 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.

“Safe Location” means a location that provides a minimum distance of 3 meters in all directions, including vertically, from adjacent properties and combustible structures or objects.

### **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 during a period identified as a Poor Air Quality Day or a High-Risk Period.
- 3) No person shall set a Recreational 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 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 due to odour, smoke or ash.
- 5) No person shall set a Recreational Fire outside of the hours of 12:00 noon until 12:00 midnight on Fridays, Saturdays, Sundays and Statutory Holidays.
- 6) Propane and Natural Gas fuelled appliances such as fire tables must be used as per the manufacturer’s guidelines and can be used at any time of day.
- 7) Cooking Appliances may be permitted within Restricted Areas. Every person who uses a cooking appliance shall comply with the following regulations:
  - a). The cooking appliance must be used following the manufacturers guidelines on the landowner’s own property.
  - b). The cooking appliance must be fueled only with commercially produced charcoal or briquettes.
  - c). The cooking appliance must be supervised at all times.
  - d). Effective means of extinguishment must be readily available, and
  - e). The cooking appliance must be fully extinguished before being left unsupervised.
- 8) No person shall ignite or use a flying lantern.
- 9) No person shall set fires for training purposes or fire extinguisher safety demonstrations without the prior approval of the Village.
- 10) No person shall burn anything defined as Prohibited Burn Material.
- 11) Open Fires are not permitted in the Village of Point Edward without prior written approval from the Council of the Village of Point Edward.

12) Enclosed heating devices and incinerating devices must follow regulations of this by-law as it pertains to “Acceptable Burn Materials” and “Prohibited Burn Materials”.

13) No person shall have a Recreational Fire larger than 0.91 meters by 0.91 meters (3 feet by 3 feet).

### **LIABILITY & ENFORCEMENT**

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

13) Where Open Air Burning is permitted under this By-Law, any person who starts a fire shall:

- a). Take all reasonable steps to keep the fire under control and conforming with the provisions of this by-law 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.

14) Any persons who contravene any provision of this By-Law are guilty of an offence and are 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 by the Corporation of the Village of Point Edward (By-Law 26 of 2022, or its successors)

15) 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, any Manager of the Village or the Chief Administrative Officer of the Village, or their designates, shall order the landowner 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 15a above.
- c. Should any land owner or occupant fail to extinguish open air burning when ordered to do so by the individuals listed in 15a above, action may be taken 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 Village fee schedule (By-Law 26 of 2022 or its successor).

### **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.

2. Any person who contravenes any portion of this By-Law may also be subject to paying the fees established in the current fee By-Law (By-Law 26 of 2022, or its successor.) Failure to pay these fees will result in them being added to the tax roll and collected in the same manner as unpaid taxes.

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 28 of 2015.

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.

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**Mayor B. Hand**

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**Clerk J. Burns**

THE CORPORATION OF THE VILLAGE OF POINT EDWARD  
 BY-LAW XX of 2023  
 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.	Set fire outside of the hours of noon until midnight on Fridays, Saturdays, Sundays and Statutory Holidays	Sect. 5	\$200.00
5.	Use of Propane or Natural Gas appliance not following manufacturer's guidelines	Sect. 6	\$200.00
6.	Cooking appliance not used according to manufacturer's guidelines	Sect 7(a)	\$200.00
7.	Cooking appliance fueled by prohibited burn materials	Sect 7(b)	\$200.00
8.	Cooking appliance left unsupervised	Sect 7(c)	\$200.00
9.	Cooking appliance with no means of extinguishment	Sect 7(d)	\$200.00
10.	Fail to extinguish cooking appliance	Sect 7(e)	\$200.00
11.	Use a Flying Lantern	Sect 8	\$200.00
12.	Set fire for training purposes or demonstration without approval	Sect 9	\$200.00
12.	Burning prohibited material	Sect 10	\$500.00
13.	Open Fire without written permission of Council	Sect 11	\$200.00
14	Burning Prohibited Materials in an enclosed heating or incinerating device	Sect 12	\$500
15	Having a Recreational Fire larger that 0.91 meters by 0.91 meters (3 feet by 3 feet)	Sect 13	\$200

Note: The penalty provision(s) for the offence(s) is indicated above in various Sections of By-law Number XX of 2023, a certified copy of which by-law has been filed.

## CHECK LIST FOR RECREATIONAL BURNING

### VILLAGE OF POINT EDWARD BY-LAW XX OF 2023 – Schedule B

Recreational Fires may only be conducted between the hours of noon until midnight on Fridays, Saturdays, Sundays and Statutory Holidays.

<b>Person Completing Checklist</b>	<b>YES</b>	<b>NO</b>
Is this response due to a complaint about a neighbour's ability to enjoy their property?	Fine possible	
Is the Recreational fire taking place during permitted days and hours?(Friday, Saturday, Sunday or Stat Holiday noon – midnight)		Fine Possible
Is the Recreational Fire confined to an open burning device or to a pit no larger than 0.91 meters by 0.91 meters (3 feet by 3 feet) in size?		Fine Possible
<b>Is the Burning Material</b> approved on the list of Acceptable Burn Materials?		Fine Possible
Are the materials being burned confined to the fire pit at all times?		Fine Possible
Open air burning shall be confined to a location that provides a minimum distance of 3 metres in all directions, including vertically, from 1. Adjacent properties. 2. Combustible structures or objects. Are the setbacks being adhered to?		Fine Possible
An effective extinguishing agent of sufficient volume with the capability of extinguishing the fire shall be immediately available for use. Is the extinguishing agent available?		Fine Possible
Recreational Fires shall be attended, controlled and supervised at all times. Are these conditions being met?		Fine Possible
Recreational Fires are prohibited under the following conditions. 1. Wind speed is in excess of 30 km/h. 2. There is rain or foggy weather present. 3. Air quality or smog warnings have been issued by Environment Canada, or other recognized government health agencies. Is the Recreational Fire in compliance with these conditions?		Fine Possible
<b>Any non-compliant burning requires a request to extinguish.</b> Fees for Services will be charged as per the Village Fee By-Law if there is a failure to comply with any requirements of the By-Law to Regulate Open Air Burning.		

Date and Time of Call \_\_\_\_\_ Address \_\_\_\_\_

Name \_\_\_\_\_ Signature \_\_\_\_\_

Officer in Charge \_\_\_\_\_ Fire Fighters Responding \_\_\_\_\_

Trucks Responding \_\_\_\_\_ Officer's Signature \_\_\_\_\_

**If any violation of this check list exists, you may be fined according to this By-Law and/or charged according to the Fee By-Law.**

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