THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 79/2023

Being a By-law to Regulate Open Air Burning within the Municipality of Port Hope

WHEREAS section 7.1 of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 authorizes the council of a municipality to pass by-law regulating the setting of open air fires, including establishing the times during which open air fires may be set;

NOW THEREFORE the Council of the Corporation of the Municipality of Port Hope enacts as follows:

Section 1 – Definitions

1.1 "Approved Device" means a device or other unit that is:
   a) A ULC/CSA approved device;
   b) In conformance with the Technical Standards and Safety Act, 2000, as amended;
   c) For outdoor use; and
   d) Installed in accordance with the manufacturers instructions; or
   e) Approved by the Fire Chief.

1.2 "Burn Permit" means a permit issued by the Municipality of Port Hope to allow open air burning in compliance with this By-Law.

1.3 "Clean Burning Wood" means uncontaminated dry wood products in the form of logs.

1.4 "Fire Ban" means a directive from the Fire Chief prohibiting the setting of any and all open-air fires within the Municipality.

1.5 "Fire Chief" means the Fire Chief for the Municipality of Port Hope or, for the purposes of the By-Law, any of his/her designates appointed by the Fire Chief and acting under the Fire Chiefs direction.

1.6 "Fire Department" means Port Hope Fire and Emergency Services and member thereof.

1.7 "Municipality" means the Corporation of the Municipality of Port Hope.

1.8 "Open Air Fire" means any fire which is set outside a building.

1.9 "Unauthorized Burn" means burning without a Burn Permit.

1.10 "Urban Area" means Ward 1 of the Municipality of Port Hope.

1.11 "Rural Area" means Ward 2 of the Municipality of Port Hope.

1.12 "Non-Compliant Burn" means failing to adhere to all terms and conditions of the Burn Permit.

1.13 "Owner" means a person identified in the most recent tax roll as the owner of a property.

Section 2 – General Conditions

2.0 All persons setting an Open Air Fire in the Municipality of Port Hope must first obtain a Permit from the Fire Department. Permits are only issued to the Owner of the property. Occupants of a property must obtain written consent from the Owner of the property to obtain a burn permit. Should such fire spread, resulting in the attendance of the Fire Department, the penalties as set out herein shall apply to the Owner of the property.

2.1 All permit holders shall notify the Fire Department prior to conducting any open air burning.

2.2 All fires shall be maintained in accordance with this By-law and conform to the terms and conditions within.

2.3 No Open Air Fire shall be maintained when the wind is in such direction or intensity so as to cause any or all of the following:

a) A decrease in visibility on any highway or roadway;
b) A rapid spread of fire through grass or a brush area; and
c) A public nuisance by creating negative health effects or interference on neighbouring residents.

2.4 All material to be burned shall be limited to wood or wood by-products.

2.5 Every person who contravenes any provision of this By-law is guilty of an offence and is liable to a penalty as set out in Section 4.

2.6 No person shall light a fire on any land within the Corporation of the Municipality of Port Hope for any purpose other than to cook on an approved cooking device without the benefit of an approved burning permit.

2.7 The Fire Chief or his/her designate may, at any time, and in the exercise of his or her sole discretion, issue a “Fire Ban” effective for a specified period of time, prohibiting the setting of any and all “Open Air Fires” within any area of the Municipality. During this time, all Burning Permits will be revoked.

2.8 The Fire Department and Public Works Department shall be exempt from the provisions of this By-law with respect to open air burning in the performance of their duties.

2.9 Only approved recreational burns are permitted within the Urban area of the Municipality of Port Hope. “Brush Fires” and “Land Clearing Fires” are not permitted.

2.10 Brush Pile burning and Land Clearing burning is only permitted in the Rural area of the Municipality of Port Hope.

2.11 Any Open Air Burn Permit may be revoked at any time by the Fire Chief or his/her designate.

Section 3 – Regulations for Burn Permits

3.1 Regulations for “Recreational Burning”

3.1.1 The holder of a Burn Permit for Recreational Burning shall, in addition to complying with Section 2 of this By-law, comply with the following:

a) shall be lit and maintained at ground level only,
b) all material to be burned is dry clean burning wood only,
c) shall have a base no larger than 1m x 1m x 1m / 1 cubic metres (3.3 ft x 3.3 ft x 3.3 ft),

d) shall be at least 7.6m (25 ft) away from the property line, street/road/highway, any overhead wires, all structures, trees and hedges,
e) shall be accompanied by a confident and competent individual 18 years of age or older,
f) shall have an available extinguishing agent within the vicinity of the burn, and
g) shall be fully extinguished prior to leaving the burn unattended.

3.2 Regulations for “Brush Pile Burning”

3.2.1 The holder of a Burn Permit for Brush Pile burning shall, in addition to complying with Section 2 of this By-law, comply with the following:

a) shall be lit and maintained at ground level only,
b) must have a base no larger than 3m x 3m x 3m / 27 cubic metres (9.8 ft x 9.8 ft x 9.8 ft),
c) shall be a minimum radius of 7.6m (25 feet) around the burn site from cleared vegetation,
d) be a minimum of 15m (50 feet) away from the property line, street/road/highway, any overhead wires, all structures, trees and hedges,
e) shall have an available extinguishing agent within the vicinity of the burn, and
f) shall be fully extinguished prior to leaving the burn unattended.

3.3 Regulations for “Land Clearing Burning”

3.3.1 The holder of a Burn Permit for Land Clearing burning shall, in addition to complying with Section 2 of this By-law, comply with the following:

a) shall be lit and maintained at ground level only,
b) must not exceed 6m x 6m x 6m / 216 cubic metres (19.7 ft x 19.7 ft x 19.7 ft),
c) be a minimum radius of 7.6m (25 feet) around burn site clear of vegetation,
d) be a minimum of 30m (100 feet) away from the property line, street/road/highway, any overhead wires, all structures, trees, and hedges,
e) be located on at least 10 acres of land,
f) burning limited to between the hours of 0800 and 1800 hours daily, fires must be out after 1800 hours (6:00 p.m.), and
g) a piece of large equipment must be on-site and available for use.

Section 4 – Penalties

4.0 A penalty will be issued when, but not limited to, any or all of the following conditions apply:

a) A complaint is received;
b) An alarm is activated;
c) Emergency equipment or personnel are dispatched;
d) Damage occurs to life or property;
e) The owner and/or tenant is not in possession of a valid Burn Permit;
f) The owner and/or tenant is not adhering to the terms and conditions of this By-law.

4.1 Penalties shall be issued by the Fire Chief or Designate. The Fire Chief or designate shall adhere to the Municipality of Port Hope Prescribe Fees for Services By-law. Any special equipment needed, not limited to Ministry of Natural Resources, other Fire Departments, or Third- Party Contractors, etc., will be invoiced at cost recovery.

4.2 Fees levied shall be made payable to the Municipality of Port Hope.

4.3 No Permit will be issued if there are any outstanding penalties, fees and/or charges with respect to Open Air Burn Permits.

4.4 No permit will be issued if there is a history of non-compliance to this By-law and the terms and conditions within.

Section 5 – Validity

5.0 This By-law shall come into force effective January 1, 2024.

Section 6 – Repeal

6.0 That By-law 15/2006 and By-law 14/2012 are hereby repealed effective January 1, 2024.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 19th day of December, 2023.

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Olena Hankivsky, Mayor

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Shrishma Davé, Acting Clerk