

THE CORPORATION OF HALDIMAND COUNTY

By-law No. 1662/16

Being a by-law to regulate open air fires in Haldimand County

WHEREAS the *Fire Protection and Prevention Act*, 1997, as amended, section 7.1, provides that by-laws may be passed by the Council of a municipality regulating the setting of open air fires, including establishing the times during which open air fires may be set;

WHEREAS the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, Section 391, provides that a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it;

WHEREAS Section 446 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that where a municipality has authority, by by-law or otherwise, to direct that a matter or thing be done, the municipality may direct that, in default of it being done by the person required to do it, such matter or thing be done by the municipality at the person's expense and the municipality may recover the expense incurred by action or adding the cost to the tax roll and collecting the cost in the same manner as taxes;

WHEREAS Haldimand County incurs costs for fire responses which are false or are as a result of failing to comply with regulations relating to open air burns;

WHEREAS Haldimand County deems it expedient to impose fees and charges related to false or unnecessary fire responses;

AND WHEREAS Haldimand County deems it expedient and in the public interest to regulate open air fires;

NOW THEREFORE, the Council of The Corporation of Haldimand County enacts as follows:

PART I – DEFINITIONS AND ADMINISTRATION

Definitions

1. **THAT** for the purposes of this By-law:
 - (a) **“Applicant”** means a person who makes application to the Fire Department for permission to hold an open air fire;
 - (b) **“Barbecue”** means an appliance, including a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth or decoration such as a chiminea or outdoor fireplace, fire burn areas or camp fires;
 - (c) **“Burn Safety Plan”** means procedures provided by the Campground owner, and shall include provisions for facilitating emergency vehicle access, and specify open-air fire safety control procedures including on-site extinguishment capabilities and supervision requirements;

- (d) **“Campfire”** means a fire area no larger than 76cm or 30” in diameter in a Campground;
- (e) **“Campground”** means an established and organized seasonal tourist camp and/or a trailer camp consisting of tents, cabins, travel trailers and/or park model trailers;
- (f) **“County”** shall mean the Corporation of Haldimand County;
- (g) **“Fire Chief”** shall mean the Fire Chief for the Corporation of Haldimand County or designate;
- (h) **“Fire Department”** shall for the purposes of this by-law mean the full-time paid staff of the Haldimand County Fire Department;
- (i) **“Municipal By-law Enforcement Officer”** means a by-law enforcement officer appointed by Haldimand County Council or a member of the Haldimand County Fire Department that has been appointed by Council as a by-law enforcement officer for the purposes of enforcing this by-law;
- (j) **“Non-Recreational Open Air Fire”** means any open air fire that is not conducted for recreational purposes and includes but is not limited to fires that take place on agricultural property;
- (k) **“Open Air Fire”** shall mean the burning of any material, including without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is, thereby, open to the air.
- (l) **“Open Air Fire Device”** means a commercially manufactured or homemade device for the purpose of containing a recreational fire including but not limited to chimineas or outdoor fireplaces;
- (m) **“Permit”** means an open air fire burn permit issued annually (calendar year) by Haldimand County in accordance with the provisions of this By-law;
- (n) **“Person”** means and includes an individual, firm, corporation, association or partnership and includes an occupant or owner of a premise;
- (o) **“Recreational Open Air Fire”** shall mean a small, contained recreational fire associated with the use of open air fire devices or fire burn areas specifically designed for recreational open air fires;
- (p) **“Rural Area”** shall mean all areas outside the urban or hamlet boundaries as defined in a County’s zoning by-law;

Administration

2. **THAT** the Fire Chief shall be responsible for the administration of this by-law.

Fire Services – Exempt

3. **THAT** the Haldimand County Fire Department shall be exempt from the provisions of this By-law with respect to any open air fire set for the purposes of education and training.

PART II – GENERAL PROHIBITION

4. **THAT** no person shall conduct or permit an open air fire within the boundaries of Haldimand County unless approved by the Fire Chief.
5. **THAT** no person shall conduct or permit to be conducted any open air fire within the boundaries of Haldimand County except in accordance with the provisions of this by-law.

PART III – REGULATIONS REGARDING RECREATIONAL OPEN AIR FIRES

Open air fires for recreational purposes, except at a public event, is deemed to be approved by the Fire Chief if the below regulations are met.

General Regulations

6. **THAT** no person shall conduct a recreational open air fire on any property where the zoning for that property is not a permitted zoning categories as set out in Schedule “A” hereto.
7. **THAT** every person conducting a recreational open air fire shall ensure that the fire is contained within the open air fire device or fire burn area.
8. **THAT** every person shall ensure that open air fire devices:
 - (a) are designed of a non-combustible material;
 - (b) do not exceed the fire burn area of 1m x 1m x 1m or 1 cubic meter in size; and
 - (c) are installed in accordance with the manufacturer’s recommendation, or if homemade, the screen size must be specified and approved by the Fire Department.
9. **THAT** every person shall ensure that adjacent persons and properties are protected from any fire hazard and are not adversely affected by products of combustion.
10. **THAT** no person shall burn materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood, but not including painted wood, pressure treated wood or creosote treated wood.
11. **THAT** no person shall burn wood having dimensions greater than the size of the open air fire device or fire burn area and the wood shall be totally confined within the open air fire device or fire burn area at all times.

12. **THAT** every person shall ensure that a recreational open air fire is conducted in an area that provides a minimum distance of 4 meters in all directions from adjacent properties.
13. **THAT** every person shall ensure that a recreational open air fire is confined to an area that is a minimum of 10 meters from permanent combustible structures or objects.
14. **THAT** every person conducting a recreational open air fire shall ensure that there is immediately available for use an effective extinguishing agent of sufficient size and capability of extinguishing the fire.
15. **THAT** every person shall ensure that recreational open air fires and/or campfires are attended, controlled and supervised at all times and shall completely extinguish the open air burn site before the site is vacated.
16. **THAT** no person shall conduct a recreational open air fire on County property without permission of the Fire Department.
17. **THAT** no person shall conduct recreational open air fires when the wind speed exceeds 20 km per hour or changes direction frequently or during rainy or foggy weather or at times when an air quality alert has been declared by the Ministry of the Environment or any successor and relevant Ministry or during a burn ban issued by the fire chief as per section 41 of this by-law.
18. **THAT** a seasonal burn permit for the setting of campfires at designated locations within a campground facility shall be issued to Campground owners, provided that a Burn Safety Plan is submitted to the satisfaction of the Fire Chief.
19. **THAT** no person shall conduct a campfire within a campground facility where a seasonal burn permit has not been issued to the Campground owner.

Barbecues

20. **THAT** every person shall ensure that a barbecue is placed in a location other than on a balcony, roofed porch or verandah that is attached to a Multi-unit Residential Building, on the roof of any structure, inside any garage, tent, vehicle or structure, or in or near dry vegetation that is conducive to the development or spread of fire or explosion.
21. **THAT** every person shall ensure that the use of a barbecue is supervised at all times.
22. **THAT** every person shall ensure that only fuel that is clean dry natural wood or a commercially produced fuel for the purpose of cooking such as charcoal or briquette, natural gas or propane is used with a barbecue.

Response to Complaints

23. **THAT** any person who conducts a recreational open air fire in contravention of the provisions of this by-law may be requested by the County to immediately extinguish the fire.

Liable for Cost

24. **THAT** where,
- (a) an owner or occupant of a premise fails to extinguish a recreational open air fire in accordance with a direction by the County;
 - (b) a recreational fire occurs, not in accordance with this by-law; or
 - (c) no owner or occupant is present on site

the County may extinguish the fire and any or all costs associated with the County's efforts to extinguish the fire shall be the responsibility of the owner or occupant of the premise upon which the open air fire is located in accordance with the Haldimand County user fees and service charges by-law as amended from time to time.

PART IV – RURAL AREA NON- RECREATIONAL OPEN AIR FIRE**Permit – Non-Recreational Open Air Fire**

25. **THAT** no permit shall be issued to any person permitting the conduct of a non-recreational open air fire on any property where the zoning for that property is not a permitted zoning category as set out in Schedule "B" hereto, except where County approval of an open air burn in a non-permitted zoning category has been attained by submitting a clearly marked site plan detailing the location of the burn and the dimensions of the property and where all regulations of this by-law, including setbacks, are met.
26. **THAT** every person wishing to conduct a non-recreational open air fire pursuant to the provisions of this by-law shall file:
- (a) a completed application prior to the open air burn, in the form provided by the Fire Department;
 - (b) the fee prescribed by the Haldimand County user fees and service charges by-law as amended from time to time.
27. **THAT** the Fire Department may issue a permit to allow a non-recreational open air fire to re-occur over an extended period of time.
28. **THAT** the Fire Department may issue a permit to allow a burn area in excess of the burn area permitted by this by-law.
29. **THAT** it is the condition of every permit issued under this by-law that the applicant has read, understood and agrees to comply with the provisions of this by-law.

Regulations – Non-Recreational Open Air Fire

30. **THAT** every person conducting a rural non-recreational open air fire shall ensure that the permit issued under this by-law is readily available on site and shall produce same if requested by a municipal by-law enforcement officer.

31. **THAT** no person shall conduct or cause to be kindled any non-recreational open air fire before sunrise or after sunset.
32. **THAT** every person shall ensure that no materials other than dry clean brush or other clean dry natural vegetation are used in a non-recreational open air fire, save and except specific materials expressly approved by the Fire Department. Notwithstanding the provisions of this section, asphalt, vinyl, tires, asbestos, wood treated with creosote or pressure treated woods shall, under no circumstances, be used in a non-recreational open air fire.
33. **THAT** every person conducting a non-recreational open air fire shall ensure that non-recreational open air fires are attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated.
34. **THAT** every person shall ensure that non-recreational open air fires are not conducted during rainy or foggy weather or on humidex or air quality alert days as declared by the Ministry of Environment for Ontario or any successor and relevant Ministry or during a burn ban issued by the fire chief as per section 41 of this by-law.
35. **THAT** every person shall ensure that non-recreational open air fires are not conducted when the wind speed exceeds 20 km per hour or when wind direction is frequently changing.
36. **THAT** every person shall ensure that a non-recreational open air fire is confined to an area which is at least 60 meters from any building, highway, road or wooded area and shall be clear of any overhead objects (i.e. wires).
37. **THAT** every person conducting a non-recreational open air fire shall ensure that it is conducted within a burn area of a manageable size not exceeding 6 meters x 6 meters.
38. **THAT** every person shall ensure that steps are taken to ensure that smoke caused by a non-recreational open air fire does not have a negative impact on the visibility of motorists using highways in the vicinity of the non-recreational open air fire or upon the owner(s) or occupant(s) of the surrounding properties.

Response to Complaints

39. **THAT** any person who conducts a non-recreational open air fire in contravention of the provisions of this by-law may be requested to immediately extinguish the fire.

Liable for Cost

40. **THAT** where,
 - (a) an owner or occupant of a premise fails to extinguish a non-recreational open air fire in accordance with a direction by the County;
 - (b) a non-recreational fire occurs, not in accordance to this by-law; or

- (c) no owner or occupant is present on the site,

the County may extinguish the fire and any or all costs associated with the County's efforts to extinguish the fire shall be the responsibility of the owner or occupant of the premise upon which the open air fire is located in accordance with the Haldimand County user fees and service charges by-law as amended from time to time.

PART V – ENFORCEMENT

41. **THAT** the Fire Department and Municipal By-law Enforcement Officers shall have the right to enter at all reasonable times upon any property in order to ascertain whether this By-law is being contravened, and to enforce or carry into effect the bylaw.
42. **THAT** every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to the penalties prescribed under the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.
43. **THAT** no person shall hinder or obstruct a municipal by-law enforcement officer from carrying out an inspection of lands in order to determine compliance with this by-law.

Fire Ban

44. **THAT** nothing in this by-law prohibits the Fire Chief from issuing a ban on any or all Open-Air Fires or from suspending, without recourse, any or all burn Permits.
45. **THAT** nothing in this by-law prohibits the Fire Chief from extinguishing any or all open air fires (whether permitted or exempt) until such time as conditions exist, to the satisfaction of the Fire Chief, to allow the open air fire to continue.

PART VI – RECOVERY OF COSTS

Prohibited Open Air Fire – Repeated

46. **THAT** every person who conducts an open air burn in contravention of this by-law shall, with respect to a second or subsequent prohibited open air burn, be responsible for any and all costs incurred by the Haldimand County Fire Department in responding to the prohibited open air burn as per the Haldimand County user fees and service charges by-law as amended from time to time.

Causing False Response

47. **THAT** every person who, alleging a contravention of this by-law, falsely notifies Haldimand County of a prohibited open air fire is responsible for any and all costs incurred by Haldimand County in respect of a response to a second or subsequent false notification as per the Haldimand County user fees and service charges by-law as amended from time to time.

Default – Collection of Costs

48. **THAT** the County shall have the right to collect any unpaid costs as authorized by this by-law by adding such charges to the tax roll where they may be collected in like manner as municipal taxes, all of which is in accordance with of the Municipal Act, 2001, S.O. 2001, c.25, as amended.

PART VII – GENERAL PROVISIONS

Severability

49. **THAT** if any section or sections of this by-law or parts thereof shall be found by any court to be illegal or beyond the power of Municipal Council of the Corporation of Haldimand County to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and shall continue in full force and effect, unless and until similarly found and this by-law shall be enacted as such.

Short Title

50. **THAT** the short title of this by-law shall be “The Open Air Fire Burning By-Law”.

Effective Date

51. **THAT** this by-law shall come into force and effect on its final passage thereof.
52. **THAT** the schedules attached to this by-law form part of the by-law

PART VIII – REPEAL FORMER BY-LAWS

53. **THAT** by-law No. 1021/09, as amended be hereby repealed.

READ a first and second time this 2nd day of May, 2016.

READ a third time and finally passed this 2nd day of May, 2016.

MAYOR

ACTING CLERK

SCHEDULE A:-RECREATIONAL OPEN AIR FIRES

**Allowable Zoning Categories in which to conduct Recreational Open-Air Fire:
providing all provisions of Part 3 are met.**

The Former Town of Haldimand:

- R1 Urban Residential Type 1 Zone
- R1-A Urban Residential Type 1-A Zone
- R1-B Urban Residential Type 1-B Zone
- R2 Urban Residential Type 2 Zone
- R3 Urban Residential Type 3 Zone
- R4 Urban Residential Type 4 Zone
- RH Hamlet Residential Zone
- RS Seasonal Residential Zone
- A Agricultural Zone
- IC Community Institutional Zone
- IN Neighbourhood Institutional Zone
- IR Rural Institutional Zone
- OS Open Space Zone
- OST Open Space-Tent and Trailer Zone
- HL Hazard Land Zone

The Former Town of Dunnville:

- R1 Urban Residential Type 1 Zone
- R2 Urban Residential Type 2 Zone
- R3 Urban Residential Type 3 Zone
- R4 Urban Residential Type 4 Zone
- R5 Urban Residential Type 5 Zone
- R6 Urban Residential Type 6 Zone
- RH Hamlet Residential Zone
- RS Seasonal Residential Zone
- A Agricultural Zone
- IC Community Institutional Zone
- IR Rural Institutional Zone
- OS Open Space Zone
- OST Open Space-Tent and Trailer Zone
- HL Hazard Land

SCHEDULE A:-RECREATIONAL OPEN AIR FIRES - Continued

The Former City of Nanticoke

- R1-A Urban Residential Type 1-A Zone
- R1-B Urban Residential Type 1-B Zone
- R2 Urban Residential Type 2 Zone
- R3 Urban Residential Type 3 Zone
- R4 Urban Residential Type 4 Zone
- R5 Urban Residential Type 5 Zone
- RM Urban Residential Mixed Zone
- RH Hamlet Residential Zone
- RV Vacation Residential Zone
- IC Community Institutional Zone
- IN Neighbourhood Institutional Zone
- IR Rural Institutional Zone
- OS Open Space Zone
- OST Open Space Tent and Trailer Zone
- HL Hazard Land Zone
- A Agricultural Zone

SCHEDULE B:-NON-RECREATIONAL OPEN AIR FIRES

**Allowable Zoning Categories in which to conduct Non-recreational Open-Air Fire:
Provided all parts provisions of part 4 are met.**

The Former Town of Haldimand

- A Agricultural Zone
- MG General Industrial
- ML Light Industrial
- MR Rural Industrial
- MX Extractive Industrial Zone
- OS Open Space Zone
- OST Open Space-Tent and Trailer Zone
- HL Hazard Land Zone

The Former Town of Dunnville

- A Agricultural Zone
- MG General Industrial Zone
- ML Light Industrial Zone
- MM Marine Industrial Zone
- MR Rural Industrial Zone
- MX Extractive Industrial Zone
- MS Special Industrial Zone
- OS Open Space Zone
- OST Open Space-Tent and Trailer Zone
- HL Hazard Land

The Former City of Nanticoke

- A Agricultural Zone
- MH Heavy Industrial Zone
- MG General Industrial Zone
- MP Prestige Industrial Zone
- MR Rural Industrial Zone
- MX Extractive Industrial Zone
- OS Open Space Zone
- OST Open Space Tent and Trailer Zone
- HL Hazard Land