

THE CORPORATION OF THE MUNICIPALITY OF HASTINGS HIGHLANDS

BYLAW # 2017-030

Being a bylaw to regulate Open Air Fires, Incinerator Fires and Outdoor Furnace Fires in order that ratepayers may make use of fire without detriment to themselves or their neighbours or the environment.

WHEREAS pursuant to Section 7.1, paragraph (a) and (b) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 as amended, Councils may pass bylaws to establish regulations and precautions for the setting of fires, including the prevention of the spreading of fires; and regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS The *Municipal Act, 2001* Subsection 10(2)6 and 8 authorizes a Municipality to pass bylaws respecting the health, safety and well-being of persons and the protection of persons and property.

AND WHEREAS The *Ontario Fire Code* O. Reg. 213/07 Division B Article 2.4.4.4 provides that open fires shall not take place unless it has been approved or the open air burning consists of a small confined fire that is used to cook food on a grill, barbecue or spit, commensurate with the type and quantity of food being cooked and supervised at all times.

AND WHEREAS Council approved an amendment to the Open Air Burn Bylaw to regulate Flying Lanterns.

AND WHEREAS Council deems it desirable to regulate and prescribe conditions for open fires within the Municipality of Hastings Highlands.

NOW THEREFORE the Council of the Corporation of the Municipality of Hastings Highlands
Enacts as follows:

1. SHORT TITLE

This bylaw may be cited as the "Burning ByLaw"

2. DEFINITIONS

Adverse effect: means one (1) or more of:

- i) Impairment of the quality of the natural environment for any use that can be made of it
- ii) Injury or damage to property or to plant or animal life
- iii) Harm or material discomfort to any person
- iv) An adverse effect on the health of any person or the impairment of the safety of any person
- v) Rendering any property or plant or animal life unfit for use by man
- vi) Loss of enjoyment of normal use of property
- vii) Interference with the normal conduct of business, and
- viii) Nuisances including, but not limited to, excessive smoke, odour, dust, airborne sparks, embers or reduced visibility of a traveled portion of any public or private driveway or roadway

Approved: Means approved in the sole and absolute discretion of the Fire Chief or his/her designate.

Burn barrel: Means a metal barrel in sound condition no larger than a 45 gallon drum with a heavy duty screen with mesh size not greater than 7 mm over the top to

prevent debris from flying out of the barrel. Vent holes must be punched in the side for ventilation, and drainage holes in the bottom with adequate clearance from surrounding vegetation or structures.

Campfire: Means a fire area no larger than 60 cm in diameter, supervised at all times by an adult person.

Chief Fire Official: Means the Fire Chief of the Municipality of Hastings Highlands or their designate.

Class "A" Materials: Means combustible materials that are generally carbon based such as wood, paper, leaves, grass and are of a less toxic nature than petroleum based combustibles such as plastics.

Council: means the municipal council for the Municipality.

Day Burning: Means the use of open fire from 7:00 a.m. to 7:00 p.m.

Fire Chief: means the person appointed by Council to act as Fire Chief of the Fire Department for the Municipality and who is ultimately responsible to Council as defined in the *Fire Protection and Prevention Act, 1997, S.O.1997, c.4.*

Fire Department: means the Hastings Highlands Fire Department.

Fire Season: Means that period from April 1 to October 31 when open fire is more strictly regulated due to the increased hazard and potential for loss.

Flying Lantern: means a small hot air balloon or other device designed to carry an open flame as an airborne light, also known as Sky Lantern, Chinese Lantern, Kongming Lantern or Wish Lantern, or other similar device which are devices containing a fuel pack, which fuel pack is usually a petroleum or wax based fuel that when lit causes the lantern to rise.

Incinerator: Means an enclosed device used to burn wood, shavings, leaves, and other Class "A" combustibles in an open area.

Municipal Fire Ban: Means a complete ban of all open fire within the boundaries of the Municipality of Hastings Highlands and is enforced by the Chief Fire Official under this bylaw and the Fire Prevention and Protection Act.

Municipal Bylaw Enforcement Officer: means a person appointed by Council under section 15 of the *Police Services Act R.S.O. 1990, c.P. 15* to enforce the Municipality's by-laws;

Open Fire: Shall mean a fire, which is not contained within a structure, which is adequately designed and constructed for the purpose, such as a barbecue or incinerator constructed to prevent the spread of fire from the contents thereof.

Owner includes:

- i. the registered owner of the property in question as revealed in the Land Registry Office of the Ministry of Consumer and Commercial Relations
- ii. any occupant of the property in question with authority to act on behalf of the registered owner
- iii. any person authorized by the registered owner to act on his or her behalf
- iv. any lessee or occupant of the property, who under the terms of a lease or occupancy agreement, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of the property as per the municipalities Property Standards Bylaw
- v. and any mortgagor or receiver and manager or trustee in bankruptcy with possession and control of the property

Outdoor Wood Burning Furnace: Means a device used to burn wood set adjacent to and exterior to a building to provide heat to that building.

Person: means any individual, partnership, group or association, organization, company, corporation or cooperative.

Restricted Fire Zone: Means complete bans of all open fire in a defined area and is enforced by the Ministry of Natural Resources & Forestry under the Forest Fire Prevention Act.

Wood by-products: means wood or wood product, including tree trunks, tree branches, brush, that do not contain chromated copper arsenate, ammoniacal copper arsenate, petachlorophenol, creosote, pesticides, paint, or any other wood treatment chemical and from which easily removable hardware, fittings and attachments, unless they are predominantly wood or cellulose, have been removed, plywood or composite wood products containing varnish or glue, an upholstered article i.e. Couches, or an article to which a rigid surface treatment is affixed or adhered, i.e. Countertops, unless the rigid surface treatment is predominantly wood or cellulose.

3. OPEN FIRES

3.1 No person shall ignite an open fire, from between 7:00 a.m. and 7:00 p.m., during the period from April 1 to October 31, which is the Fire Season. Exceptions include: a small campfire for cooking and warmth, maple syrup operations and farm meat processing and preparation.

3.2 A person capable of containing or extinguishing a fire may burn; piled wood, brush, or discarded wood by-products provided:

- (a) The fire is ignited at 7:00 p.m. or later and is extinguished at 7:00 a.m. or earlier;
- (b) The fire is tended by a person capable of extinguishing the fire until the fire is out;
- (c) The pile is less than 2 meters in height and less than 2 meters in diameter;
- (d) The fire is at least 5 meters from any combustible materials;
- (e) The person capable of extinguishing the fire has adequate tools and water and human resources to contain the fire.

3.3 A person capable of containing or extinguishing a fire may burn grass and leaves provided:

- (a) The fire is tended by a person capable of extinguishing the fire until it is out;
- b) The area to be burned is less than 1 hectare;
- (c) The length of burning edge is less than 10 meters;
- (d) The fire is ignited at 7:00 p.m. or later, and is extinguished by 7:00 a.m. or earlier;
- (e) The person capable of extinguishing the fire has adequate tools, human resources and water to contain the fire.

3.4 Notwithstanding 3.2 and 3.3 above, no person shall set out an open fire during a restricted fire zone or a municipal fire ban.

3.5 Notwithstanding 3.2 and 3.3 above, no person shall continue to burn when wind conditions or other factors 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 brush areas;
- (c) an adverse effect on neighbouring lands or persons.

3.6 Any person setting out an open fire is responsible for the care and control and containment of the said fire until it is completely extinguished. Persons setting out any fire within the Municipality of Hastings Highlands shall ensure that they can, if needed, summon assistance from the Municipality of Hastings Highlands Fire Department without delay and that adequate means of

extinguishing the fire are available at the site at all times during the fire and, in particular, that the firefighting materials shall be available where prescribed at all times during the fire.

3.7 any fire out of control shall be reported to the fire department by calling 911. A person who sets out an open fire and loses control of the said fire is required by this by-law to report the fire and loss of control to the fire department immediately by calling 911.

3.8 The Chief Fire Official is authorized to order any person to extinguish any fire or to cause such a fire to be extinguished when there is a breach of any provisions of this by-law, or, where in the opinion of the Chief Fire Official, there is a danger of such fire spreading or causing the spread of fire or otherwise endangering life or property, and the person shall comply with any such order.

3.9 A person setting out a fire contrary to the provisions of this bylaw shall immediately extinguish such fire and a person setting out a fire which they may be unable to prevent from spreading shall immediately extinguish such fire, and in default of doing so, this municipality may do so at that person's expense and this municipality may recover the expense in doing so by action, or the same may be recovered in like manner as municipal taxes.

3.10 Notwithstanding any other Section of this Bylaw, the Fire Chief or Deputy Fire Chief or designate may authorize a controlled burn of brush piles at a Municipal Landfill Site provided that, in their judgment, (1) weather conditions are favorable to open air burning, (2) there are competent Municipal employee(s) on hand to perform the controlled burn, (3) that the perimeter of the area to be burned has been cleared of flammable material.

4. INCINERATORS / BURN BARRELS

4.1 The installation, use and maintenance of incinerators for the burning of wood like materials, paper and other Class "A" materials within the Municipality of Hastings Highlands will only be pursuant to the following criteria:

- (a) Incineration must be undertaken through the use of an enclosed device and;
- (b) Incinerators must be located at least 5 meters from any forest or any building and;
- (c) Incinerators must be located at least 2 meters from any combustible material and;
- (d) Incinerators must be covered by mesh less than 5 millimeters in size and;
- (e) Incinerators are subject to all the provisions of Part 3 - Open Air Burning and;
- (f) Incinerators shall not be used during a municipal fire ban.

4.2 No person shall have an open fire in an incinerator / burn barrel in any built up area.

5. OUTDOOR WOOD BURNING FURNACE FIRES

5.1 An outdoor wood burning furnace shall be equipped with a spark arrestor on the flue when used during the fire season or any other time when in the opinion of the Chief Fire Official, sparks could contribute to the spread of fire.

5.2 The outdoor wood burning furnace is subject to Sections 3.8 and 3.5 of this bylaw due to its unique burning characteristics, which can produce heavy volumes of smoke and/or sparks and cinders.

5.3 The outdoor furnace shall not be used to burn garbage. It is designed to burn wood only.

6. FLYING LANTERNS

6.1 No person within the Municipality of Hastings Highlands shall ignite or release an ignited Flying Lantern.

Any person who ignites or releases a Flying Lantern and causes an open fire in the Municipality of Hastings Highlands assumes full responsibility for fire control and shall:

- (i) be responsible for any damage to property or injury to persons or animals occasioned by said fire;
- (ii) assumes full responsibility for fire control and may be liable for costs incurred by the Fire Department, including the costs of the personnel and equipment as authorized and set out in the Municipality of Hastings Highlands Fees Bylaw in effect at the time of the incident and authorized by the Fire Chief or his or her designate.

6.2 No person within the Municipality of Hastings Highlands shall offer for sale, cause or permit to be sold, or sell any flying lanterns.

7. WEATHER CONDITIONS:

No person shall set an open fire:

- (i) under weather conditions that limit the rapid dissipation of smoke;
- (ii) when wind may cause unsafe conditions that may result in fire spread;
- (iii) under extremely dry or arid conditions;
- (iv) when the Ministry of the Environment & Climate Change has issued a Smog Advisory or Smog Alert applicable to the area;
- (v) when the Fire Chief has placed a ban on open fires.

8. MUNICIPAL FIRE BAN

A complete ban of all open fire within the boundaries of the Municipality of Hastings Highlands can be put in place / or lifted at the sole discretion of the Fire Chief should conditions warrant.

Fire Ban is enforced by the Chief Fire Official or designate under this by-law and the Fire Prevention and Protection Act.

9. PENALTIES

Any person who contravenes any provision of this by-law is guilty of an offence and liable to a fine not more than \$2,000.00 exclusive of costs, under the Provincial Offences Act, as per Appendix "A" attached.

10. EFFECTIVE

This Bylaw shall come into full force and effect upon the final passing hereof.

And that former Bylaws 13-2003, 26-2005 and 32-2005 pertaining to this matter be hereby repealed; and

READ a first, second and third time and finally passed this 3rd day of May, 2017.

Vivian Bloom

Mayor

(Ms.) Pat Pilgrim

CAO/Clerk

MUNICIPALITY OF HASTINGS HIGHLANDS

BY-LAW # 2017-030

SCEHDULE "A"

Set Fine Schedule

Part 1, Provincial Offences Act

Item	Short Form Wording	Offence Creating Provision	Set Fine (includes costs)
1	Day Burning	3.1	\$250.00
2	Failure to extinguish any fire as ordered by the Chief Fire Official	3.8	\$250.00
3	Operating an incinerator during a municipal fire ban	4.1(f)	\$250.00
4	Failure to report a set fire out of control	3.7	\$250.00
5	Burning garbage in an outdoor furnace	5.3	\$250.00
6	Setting out an open fire during a municipal fire ban	3.4	\$500.00
7	Leave an open fire unattended or unsupervised	3.2(b) 3.3(A)	\$250.00
8	Set a Fire in unsafe weather conditions	7.0	\$250.00
9	Burn in a unlawful burn barrel	4.1	\$250.00
10	Open fire causing adverse effect	3.5	\$250.00
11	Ignite or release an ignited flying lantern	6.1	\$400.00
12	Sell, cause or permit to be sold flying lanterns	6.2	\$400.00
13	Burn material other than dry wood or wood by products Class "A" materials	4.1	\$400.00
14	Hinder or obstruct enforcement officer	9.0	\$500.00