

# THE CORPORATION OF THE MUNICIPALITY OF HASTINGS HIGHLANDS

## BYLAW 2020-047

### A BYLAW TO REGULATE OPEN-AIR FIRES AND INCINERATOR FIRES IN ORDER THAT EVERYONE MAY USE FIRE WITHOUT DETRIMENT TO THEMSELVES, NEIGHBOURS OR THE ENVIRONMENT IN THE MUNICIPALITY OF HASTINGS HIGHLANDS

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**WHEREAS** section 7.1 of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended, Council 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** section 2.4.4.4. (1) of the Fire Code, Ontario Regulation 213/07, as amended, prohibits open-air fires unless approved, or unless such fires consists of a small, confined fire, supervised at all times, and used to cook food on a grill, barbecue or spit and is commensurate with the type and quantity of food being cooked;

**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** section 429 (1), of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that a Municipality may establish a system of fines for offences under a bylaw of the Municipality passed under this Act. 2006, c. 32, Sched. A, s. 184;

**AND WHEREAS** Section 446(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that if a Municipality has the authority by any *Act*, or under a bylaw, to direct or require a person to do a matter or thing, the Municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

**AND WHEREAS** Section 446 (2) provides for the purposes of subsection (1), the Municipality may enter upon land at any reasonable time. 2006, c. 32, Sched. A, s. 184;

**AND WHEREAS** Section 446 (3) and (4) provides that the Municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. 2006, c. 32, Sched. A, s. 184;

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

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

## **1.0 Definitions**

1.1 In this bylaw:

**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, roadway or highway.

**Approved** - means approved in the sole and absolute discretion of the Fire Chief or his/her designate.

**Barbeque** - means an appliance or structure designed and intended solely for the cooking of food in the open air but does not include devices predominantly designed for personal warmth.

**Built-up Area** - means an area such as a hamlet, village, town or city which has a lot of buildings and structures in close proximity.

**Burn Barrel** - means a metal barrel in sound condition no larger than a 205-litre container equipped a heavy-duty screen with mesh size not greater than 5 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, combustible materials or structures.

**Bylaw Enforcement Officer** - means that person or persons appointed by Council for the purpose of enforcing bylaws and provincial laws and includes a provincial offences officer.

**Campfire** - means a fire area no larger than 60 cm in diameter (2 ft by 2 ft) that is used for cooking or warmth and is supervised at all times by a responsible person; includes an open-air fire device.

**Chief Fire Official** - means the Fire Chief of the Corporation 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.

**Combustibles** - means any material, combination of materials, or arrangement of materials in which any portion thereof is susceptible to catch fire when exposed to heat or flames.

**Council** - means the Council of the Corporation of the Municipality of Hastings Highlands.

**Dangerous / Unsafe Conditions** - means any condition as determined by the Chief Fire Official that increases the risk of the spread of a fire or is adverse to public safety.

**Day Burning** - means the use of open-air fires from 7:00 a.m. to 7:00 p.m.

**Extinguish** - means to be completely put out or quenched so that there is no flame, smoke, hot or glowing embers remaining.

**Fees and Charges** - means the schedule of rates and fees approved by the Council of the Corporation of the Municipality of Hastings Highlands.

**Fireworks** - means as defined in the Explosive Regulations made pursuant to the *Explosives Act*, R.S. c. E-15, s.1 as amended and includes one single item of fireworks.

**Fire Chief** - means the person appointed by Council to act as Fire Chief for the Municipality of Hastings Highlands Fire Department 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 Municipality of Hastings Highlands Fire Department.

**Fire Season** - means that period from April 1 to October 31 when open-air fires are 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, such as: an airborne light, also known as Sky Lantern, Chinese Lantern, Kongming Lantern or Wish Lantern, or other similar devices. These similar devices may contain a fuel pack, usually a petroleum or wax based fuel, that when lit causes the lantern to rise.

**Hazardous Materials** - means materials with properties such as flammability, corrosiveness, inherent toxicity or is hazardous to human health or the environment.

**Incinerator** - means an enclosed device, with a chimney, chimney cap and 5 mm screen used to burn wood, shavings, leaves, and other Class "A" combustibles.

**Municipality** - means the Corporation of the Municipality of Hastings Highlands.

**Municipal Property** - means any property under the jurisdiction of the Corporation of the Municipality of Hastings Highlands.

**Noxious Material** - includes, but is not limited to petroleum products, tires, plastics, rubber products, drywall, construction waste (except clean wood products), tar, asphalt products, pressure-treated wood, creosote-treated wood, painted wood, cardboard, yard waste and includes hazardous materials.

**Officer** - includes the Fire Chief or designate of the Municipality of Hastings Highlands Fire Department, the Bylaw Enforcement Officer, the Ontario Provincial Police, a Provincial Offence Officer or any person authorized by the Corporation of the Municipality of Hastings Highlands to regulate or to enforce the provisions of this Bylaw.

**Open-Air Fire** - means a fire where the flame is not contained within a structure that is adequately designed and constructed for the purpose and including burn barrels.

**Open-Air Fire Device** - means any commercially or non-commercially manufactured device for the purpose of containing a recreational fire which is made of a non-combustible material and installed in accordance with the manufacturer's recommendations this includes but is not limited to chimeneas and outdoor fireplaces.

**Outdoor Fire Container** - means a small non-combustible container used to contain a small fire and includes but is not limited to chimineas, fire pits, fire bowls, and outdoor brick fireplaces.

**Owner includes** -

- (a) The person who, for the time being, receives the rent of, or manages or pays the Municipal taxes on the property in question whether on his own account or as agent or trustee of any other person; or

- (b) any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property; or
- (c) A purchaser of such land under an agreement for sale who has paid any Municipal taxes thereon after the date of execution of the agreement by both the vendor and purchaser; or
- (d) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.

**Person** - means any individual, property owner, association, firm, partnership, corporation, agent or trustee and their heirs, executors or other legal representation of a person.

**Property** - means a building or structure or part of a building or structure and includes lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile buildings, structures, outbuildings, fences and erections thereon, and includes vacant property.

**Responsible Person** - means any adult person (18 years of age or older) who is capable of exercising the required judgment and capable of performing the necessary actions to control a fire and prevent its unwanted spread.

**Restricted Fire Zone** - means a complete ban of all open-air fires in a defined area and is enforced by the Ministry of Natural Resources & Forestry under the *Forest Fire Prevention Act*.

**Structure** - means anything constructed or erected, the use of which requires location on or in the ground.

**Supervise** - means a responsible person to watch an activity and make certain that everything is done correctly and safely by maintaining a constant visual.

**Total Fire Ban** - means a period of time designated by the Chief Fire Official or their designate where a total prohibition on all open-air fires is in place and no open-air fires of any kind, including fireworks shall take place to all land within the municipality of Hastings Highlands, including:

- All cottages, private and commercial.
- All interior/backcountry camping – lake access, canoe tripping and backpacking; and
- All trails

Not permitted during a fire ban:

- Campfires are **not permitted** at any time;

- Charcoal barbeques or biomass units using natural burning fuels (i.e. sticks, twigs, pinecones, etc.) are **not permitted**;
- Candles and tiki torches of any type are **not permitted**;
- Fireworks of all types are **not permitted**;
- Portable outdoor living gas or propane fire pits or fire bowls manufactured for the intended purpose of outdoor ambience and recreational enjoyment that produce a flame are **not permitted**; and

\*\*Portable gas/propane/naphtha stoves or barbeques that have a fuel source with a control valve may still be used. Anyone using an outside wood fired boiler as a source of heat for their dwelling unit and/or hot water are required to have a chimney cap in place with no larger than ¼" mesh in place and burn with small fires and extreme caution at this time.

**Wood By-products** - means wood or wood product, including but not limited to tree trunks, tree branches, brush, **that do not contain** chromated copper arsenate, pentachlorophenol, ammoniacal copper arsenate, 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.

**Yard Waste** - includes but is not limited to grass, leaves, trees, brush, brush trimmings, spent flowers, garden plants, weeds, pine needles and hay.

## 2.0 GENERAL PROHIBITIONS

2.1 No person shall ignite an open-air fire, from between 7:00 a.m. and 7:00 p.m., during the period from April 1<sup>st</sup> to October 31<sup>st</sup>, which is the Fire Season.

**Exceptions:** A small contained campfire, maple syrup operations, farm meat processing and preparation.

2.2 A responsible person shall burn piled wood, brush, or discarded wood by-products only if:

(a) The fire is ignited at 7:00 p.m. or later and is extinguished at 7:00 a.m. or earlier during the period from April 1<sup>st</sup> to October 31<sup>st</sup>,

(b) The fire is supervised and tended to by a responsible 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; and

(e) The responsible person capable of extinguishing the fire has adequate tools, water and human resources to contain the fire.

2.3 A responsible person shall burn grass and leaves only if:

- (a) The fire is supervised and tended to by a responsible person capable of extinguishing the fire until the fire is out;
- (b) The area to be burned is less than 1 hectare;
- (c) The length of burning edge is less than 3 meters per person;
- (d) The fire is ignited at 7:00 p.m. or later, and is extinguished by 7:00 a.m. or earlier during the period from April 1<sup>st</sup> to October 31<sup>st</sup>;
- (e) The responsible person capable of extinguishing the fire has adequate tools, water and human resources to contain the fire.

2.4 Notwithstanding 2.2 and 2.3 above, no person shall set an open-air fire in a restricted fire zone or during a total fire ban, including clusters of candles, tiki torches and any other open flame devices.

2.5 Every Person conducting an open-air fire shall take all reasonable steps to ensure that adjacent properties and individuals are protected from any fire hazard and are not adversely affected by the products of combustion including but not limited to smoke, ash and fumes.

2.6 Any person who sets an open-air fire within the Municipality shall ensure the fire is supervised and tended to by a responsible person capable of extinguishing the fire until the fire is out;

2.7 Any person who sets an open-air fire within the Municipality is responsible for the care, control and containment of the fire until it is completely extinguished.

2.8 Any person who sets an open-air fire within the Municipality shall ensure, if needed, that they summon assistance from the Hastings Highlands Fire Department without delay.

2.9 Any person who sets an open-air fire within the Municipality shall ensure adequate means of extinguishing a 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.

2.10 A person who sets an open-air fire and loses control of the fire shall report the fire and loss of control to the fire department immediately by calling 911.

2.11 The Chief Fire Official or designate is authorized to order any person to extinguish any fire when there is a breach of any provisions of this bylaw, or, where in the opinion of the Chief Fire Official or designate, there is a danger of such fire spreading or otherwise endangering life or property. All person(s) shall comply with any such order.

2.12 Any person setting a fire contrary to the provisions of this bylaw shall immediately extinguish such fire.

2.13 Any person setting a fire which they may be unable to prevent from spreading shall immediately extinguish the fire and may do so at that person's expense. The Municipality may recover any expenses in doing so by action, or the same may be recovered in like manner as Municipal taxes.

2.14 Notwithstanding any other Section of this Bylaw, the Chief Fire Official or designate may authorize a controlled fire of brush piles at a Municipal Waste Disposal/Transfer Site.

2.15 No person shall burn materials other than Class "A" Materials.

2.16 No person shall burn household waste, human waste or hazardous waste.

### **3.0 Exceptions**

3.1 Barbecues used to cook food shall be exempt from this bylaw provided the following conditions are followed:

- (a) the barbeque shall be supervised at all times; and
- (b) the fuel used is a flammable gas commercially produced for the purpose of cooking, such as natural gas and propane gas.

3.2 The Municipality of Hastings Highlands Fire Department is exempt from the provisions of this bylaw with respect to any open-air fires conducted for the purpose of education and training.

### **4.0 INCINERATORS**

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 will only be permitted if:

- (a) Incineration must be undertaken through the use of an enclosed device;
- (b) Incinerators must be located at least 5 meters from any forest or any building;
- (c) Incinerators must be covered by mesh less than 5 millimeters in size;



(d) Incinerators are subject to all the provisions of Section 2.0; and

(e) Incinerators shall not be used during a total fire ban.

4.2 No person shall have an open-air fire in an incinerator in any built-up area.

## **5.0 FLYING LANTERNS**

5.1 No person within the Municipality shall ignite or release an ignited Flying Lantern.

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

(i) be responsible for any damages to property or injury to persons or animals occasioned by the fire;

(ii) assumes full responsibility for fire control and may be liable for costs incurred by the Fire Department, including but not limited to 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.

5.3 No person within the Municipality shall offer for sale or permit to be sold any flying lanterns.

## **6.0 WEATHER CONDITIONS**

6.1 No person shall set an open-air fire:

(a) under weather conditions that limit the rapid dissipation of smoke;

(b) when wind may cause dangerous / unsafe conditions that may result in fire spread, a decrease in visibility on any highway or roadway or an adverse effect on neighbouring lands or persons;

(c) under extremely dry or arid conditions;

(d) when the Ministry of the Environment & Climate Change has issued a Smog Advisory or Smog Alert applicable to the area;

(e) when the Fire Chief has placed a total fire ban on open-air fires.

## **7.0 TOTAL FIRE BAN**

7.1 A complete ban of all open-air fire within the boundaries of the Municipality shall be put in place or lifted at the sole discretion of the Chief Fire Official or designate should conditions warrant.

7.2 A total fire ban is enforced by the Chief Fire Official or designate under this bylaw and the *Fire Prevention and Protection Act*.

## **8.0 OBSTRUCTION**

8.1 No person shall hinder, obstruct or attempt to hinder or obstruct an Officer who is exercising a power or performing a duty under the *Municipal Act* or under a bylaw passed under this Act.

8.2 Any person who has been alleged to have contravened any of the provisions under the *Municipal Act* or under a bylaw passed under this Act, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered an Officer in the execution of his/her duties.

## **9.0 OFFENCES AND PENALTIES**

9.1 Every person who contravenes any provision of this bylaw is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act* R.S.O. 1990, C.p.33.

9.2 All penalties imposed by a judicial official are recoverable under the provisions of the *Provincial Offences Act* together with such costs and expenses as are imposed there under in Schedule 'A' of this bylaw.

9.3 The Administrative Monetary Penalty System Bylaw applies to each administrative penalty issued pursuant to this Bylaw.

9.4 Each person who contravenes any provision of this Bylaw shall, upon issuance of a Penalty Notice in accordance with the Administrative Monetary Penalty System Bylaw, be liable to pay to the Municipality an administrative monetary penalty.

## **10.0 INTERPRETATION**

10.1 The provisions in Part VI of the *Legislation Act, 2006*, S.O. 2006, c.21, Sched. F, shall apply to this Bylaw.

10.2 Any reference in this bylaw to any statutes, regulations or bylaws shall be deemed to be a referenced to such statutes, regulations or bylaws, as amended, restated or replaced from time to time.

## **11.0 HEADING**

11.1 The headings used in this Bylaw are included solely for the convenience of reference and are not to be considered part of this Bylaw and are not intended to be full or accurate descriptions of the contents of any section, clause or provision of this Bylaw.

## **12.0 SEVERABILITY**

12.1 Should any provision, or any part of a provision, of this Bylaw be declared invalid, or to be of no force and effect, by a court of competent jurisdiction, it is the intent of Council that such a provision, or part of a provision, shall be severed from this Bylaw, and every other provision of this Bylaw shall be applied and enforced in accordance with its terms to the extent possible according to law.

12.2 Bylaw 2017-030 and all its amendments shall be rescinded on the day this bylaw comes into force and effect.

## **13.0 SHORT TITLE**

13.1 The short title of this bylaw shall be the '**Open-Air Fire Bylaw**'.

## **14.0 EFFECTIVE DATE**

14.1 **THAT** this Bylaw shall come into effect on the day it was passed.

**ENACTED** and **PASSED** in Council this 6<sup>th</sup> day of May 2020.

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Vic A. BODNAR, Mayor

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Suzanne Huschilt, Municipal Clerk

**SCHEDULE “A” to Bylaw 2020-047**

**A BYLAW TO REGULATE OPEN-AIR FIRES AND INCINERATOR FIRES IN ORDER THAT EVERYONE MAY USE FIRE WITHOUT DETRIMENT TO THEMSELVES, NEIGHBOURS OR THE ENVIRONMENT IN THE MUNICIPALITY OF HASTINGS HIGHLANDS**

**Part I – Provincial Offences Act Set Fines**

<b>ITEM</b>	<b>COLUMN 1 SHORT FORM WORDING</b>	<b>COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE</b>	<b>COLUMN 3 – SET FINE</b>
1	Set open-air fire during prohibited times	2.1	\$500.00
2	Set an open-air fire larger than 2 meters in height and 2 meters in diameter	2.2 (c)	\$350.00
3	Set a fire within 5 meters of combustible materials	2.2 (d)	\$500.00
4	Burn grass and leaves greater than 1 hectare	2.3 (b)	\$500.00
5	Set an open-air fire in a restricted fire zone or during a total fire ban	2.4	\$500.00
6	Set an open-air fire causing adverse effect	2.5	\$300.00
7	Leave an open-air fire unattended or unsupervised	2.6	\$500.00
8	Fail to have care and control of an open-air fire	2.7	\$500.00
9	Fail to ensure adequate means of extinguishing a fire are readily available	2.9	\$300.00
10	Failure to report a fire out of control	2.10	\$900.00

THE PENALTY PROVISION FOR THE OFFENCES CITED ABOVE IS SECTION 8 OF BYLAW NUMBER 2020-047, A CERTIFIED COPY OF WHICH HAS BEEN FILED.

**\*\*CONTINUED\*\***

**SCHEDULE "A" to Bylaw 2020-047**

**A BYLAW TO REGULATE OPEN-AIR FIRES AND INCINERATOR FIRES IN ORDER THAT EVERYONE MAY USE FIRE WITHOUT DETRIMENT TO THEMSELVES, NEIGHBOURS OR THE ENVIRONMENT IN THE MUNICIPALITY OF HASTINGS HIGHLANDS**

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<b>ITEM</b>	<b>COLUMN 1 SHORT FORM WORDING</b>	<b>COLUMN 2 PROVISION CREATING OR DEFINING OFFENCE</b>	<b>COLUMN 3 - SET FINE</b>
11	Fail to extinguish fire	2.11	\$300.00
12	Burn material other than dry wood or wood by products Class "A" materials	2.15	\$400.00
13	Burn household waste, human waste or hazardous materials	2.16	\$400.00
14	Use an incinerator or contrary to bylaw	4.1	\$350.00
15	Set an open-air fire in an incinerator where prohibited	4.2	\$500.00
16	Prohibited use of Flying Lantern(s)	5.1	\$500.00
17	Sell or permit prohibited sale of Flying Lantern(s)	5.2	\$500.00
18	Set an open-air fire during unsafe weather conditions	6.1	\$300.00
19	Hinder/Obstruct an Officer	8.1	\$500.00

THE PENALTY PROVISION FOR THE OFFENCES CITED ABOVE IS SECTION 8 OF BYLAW NUMBER 2020-047, A CERTIFIED COPY OF WHICH HAS BEEN FILED.