



The Corporation of the Township of Hamilton

By-law Number 2014 – 19

Amended by Resolution RC RES: 2017-55 (March 17, 2017)

Amended by By-law 2018-21 (March 20, 2018)

Consolidated Version

Being a By-Law for prescribing the times and conditions and establishing regulatory requirements for the setting of fires in the Township of Hamilton

WHEREAS Section 8 of the Municipal Act, S.O. 2001, c. 25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 9 of the Municipal Act, 2001, provides that Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and, (b) enhance their ability to respond to municipal issues;

AND WHEREAS Part 2 Section 7.1 (1) (b) of the Fire Protection and Prevention Act as amended, provides that councils of municipalities may pass by-laws for prescribing the times that fires may be set and the precautions to be observed by persons setting out fires.

AND WHEREAS The *Ontario Fire Code* O. Reg. 388/97 Section 2.6.3.4 provides that open fires shall not be permitted unless approved or unless such burning consists of a small contained fire supervised at all times and used to cook food on a grill or a bar-be-cue.

NOW THEREFORE the Council of the Corporation of the Township of Hamilton **ENACTS AS FOLLOWS:**

1.01 **Definitions:** In this By-law:

"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 affect 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) obstruction 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 device in sound condition (not larger than 45 gallons) with a screen with mesh size not greater than 7mm over the top to prevent debris and embers from flying out. Vent holes must be present in the side for ventilation and drainage holes in the bottom with adequate clearance from surrounding vegetation or structures in accordance with Schedule A

“burn permit” means a permit issued pursuant to the provisions of this bylaw in the form attached as Schedule A for the purpose of an open fire.

“campgrounds” means a Tourist Camp or Trailer Camp.

“enclosed device” means a commercially manufactured burning device to confine fire complete with a mesh spark arresting screen to control sparks. Such devices may be called but not limited to chimineas or fire bowls examples in Schedule B

“Municipality” means The Corporation of the Township of Hamilton and all the lands within the geographic limits of the Township.

“close proximity” means within 5 metres of any buildings, or other structures and within 5 metres of any fences, trees, brush piles, grass or combustible materials to constitute a hazard in the sole and absolute discretion of the Fire Chief or his/her designate.

“Council” means the municipal council for the Township of Hamilton.

“Director of Emergency Services” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“farm” means properties farmed by farmers or businesses that declare gross farm income of \$7,000.00 or more (for income tax purposes). These farmers and businesses are required to register annually under the *Farm Registration and Farm Organizations Funding Act*.

“fire area” means the area of a fires length, width and height that is measured using the metric system.

“Fire Chief” means the Director of Emergency Services and the person appointed by Council to act as Fire Chief of the fire department for the Township of Hamilton and who is ultimately responsible to council as defined in the *Fire Protection and Prevention Act, 1997*.

“Fire Department” means the Township of Hamilton Fire Department.

“open fire” means any fire started which has or has not been authorized by the issuance of a Fire Permit under this By-Law or by written permission of the Fire Chief or his/her designate

“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 Township Property Standards By-law Number 2004-23
- v. and any mortgagor or receiver and manager or trustee in bankruptcy with possession and control of the property

“permittee” means the person who has been issued a permit to burn in the open air.

“person” means any individual, partnership, group or association, organization, company, corporation or cooperative.

“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.

“tourist camp” means any camp and land equipped with cabins used for the accommodation of the public and any land used or maintained to provide accommodations for camping for the public.

“trailer” means any vehicle constructed to be attached and propelled by a motor vehicle and that is capable of being used by persons for living, sleeping or eating, even if the vehicle is jacked-up or its running gear is removed.

“trailer camp” – means any land that a trailer is kept which is used for the purpose of living, sleeping or eating and accommodation of persons therein.

“wood by-products” means wood or wood product, including tree trunks, tree branches, brush, that are not contaminated with paint, chromated copper arsenate, ammoniacal copper arsenate, petachlorophenol or creosote, or any other wood treatment chemical.

1.02 **Interpretation Rules:**

- (a) This By-law applies to all property as set out in the definition section within the geographic limits of the Corporation of the Township of Hamilton and to the setting of open fires on any such land.
- (b) The Schedules attached to this By-law form part of the By-law, and are enforceable as such.
- (c) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

1.03 **Statutes:** References to laws in this By-law are meant to refer to the statutes, as amended from time to time that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law shall be considered to be severed from the balance of the By-law, which shall continue to operate in full force and effect.

2.0 General Provisions:

- 2.01 This By-law shall be known as the “Township of Hamilton” – Open Fire Burn By-law” and will be referred to herein as the “By-law”.
- 2.02 No person shall set or cause to be set or permit to be set an open fire in the Township :
- (i) without obtaining a burn permit and filing the same with the Township of Hamilton.
 - (ii) Without obtaining written permission from the Fire Chief or his/her designate through the issuing of a permit by that same person.
 - (iii) That exceeds the allowed fire area without obtaining written permission from the Fire Chief or his/her designate.
- 2.03 No person shall leave an open fire unattended or unsupervised at any time until it has been fully extinguished.
- 2.04 No person shall set, cause to be set or permit to be set, an open fire in close proximity to any buildings, fences, trees, brush piles or other structures or combustible material of any nature whatsoever that could be ignited by flame, sparks or heat radiating from the said fire.
- 2.05 The person in charge of the fire shall have sufficient equipment and resources available at or near the location of the fire at all times during the open fire to extinguish the fire. Equipment and resources may include but not be limited to shovels, rakes, fire buckets, garden hose, water, sand, and the like.
- 2.06 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) under smog alert conditions
 - (v) when the Fire Chief has placed a ban on open fires.
- 2.07 A permit may be issued by any issuing agent listed on Schedule “B” attached to and forming part of this By-law.

3.0 Permit Requirements:

3.01 Burn Permit: Except specified in Section 3.07 all persons setting an open air fire in the Township of Hamilton shall obtain a fire permit. The Fire Chief may from time to time make amendments to the permit application forms that are administrative in nature.

3.02 Burning Permit Fees: open air burning permits are subject to fees outlined in the Establish Fees and Charges By-Law. The fee(s) collected for each burning permit is non refundable regardless of whether or not the privileges granted under this by-law and burning permit have been exercised. No adjustment or refund of fee shall be provided due to suspension or revocation of any burning permit.

3.03 Residential Burn Permit: a Residential Burn Permit is required for all open air fires and shall not exceed two cubic meters and shall be kept a safe distance from any combustibles, structures or buildings (>5 meters), unless otherwise approved by the Fire Chief or his/her designate.

3.04 Agricultural (farm) Burn Permit: The owner/lessee of a farm shall obtain a permit as outlined in Schedule A for an open fire located on farm property. The permit may include more than one property that is owned and/or operated by the owner/lessee. Approval may be obtained to permit the fire to smolder over night if special conditions apply. This article shall not apply to the residential areas of a farm.

3.05 Campground/Trailer Camp/Tourist Camp Burn Permit: The owner of a campground/trailer camp/tourist camp shall obtain an annual permit for open air fires within the designated campground/trailer camp/tourist camp from the Township of Hamilton Fire Department.

3.06 Commercial/Contractor Burn Permit: a Commercial/Contractor Permit shall be required for each open air fire that has a fire area:

- (i) larger than the prescribed 2m³ or,
- (ii) where an open fire requires day time burning between the hours of 8 am and 6 pm and
- (iii) where special provisions may be required

Prior to burning, the permit holder of a commercial/contractors burn permit shall notify the Fire Department to report when day burning is occurring.

3.07 No Permit Required: A person may have an open fire without obtaining a permit provided the following. The fire area is supervised at all times by an adult person, the fire area does not violate any other laws, by-laws, rules or regulations passed by any competent authority or otherwise and/or providing no other Township -wide or provincial burn bans are in effect and the following conditions are met:

1. The fire is contained in a burn barrel attached in schedule "A"
 - (i) the fire area shall be a minimum of five (5) metres from any building or other structures and five (5) metres from any fences, trees brush piles or combustible materials.
2. The fire is contained in an enclosed device attached in schedule "B"
 - (i) the fire area is supervised at all times by an adult person;
 - (ii) the fire area shall be kept a safe distance from any building or other structures, fences, trees brush piles or combustible materials.
3. the fire area is no larger than 30cm³ in area;
 - (i) the fire area is used to cook food, the fire area is in a pit or other device such as a BBQ designed for said use;
 - (ii) the fire is extinguished immediately after cooking is complete.

4.0 Burn Restrictions:

- 4.01 Day Burning between the hours of 8 am and 6pm from April 1 to October 31 must be authorized by the chief fire official or designate.
- 4.02 No person shall set a fire within the Township of Hamilton while a burn ban is imposed for any reason.
- 4.03 No person shall have an open fire for the purpose of burning material other than wood or wood by-products within the Township of Hamilton.
- 4.04 No person shall have an open fire for the purpose of burning pressure treated wood.
- 4.05 No person shall have an open fire that causes an adverse effect on the health, safety or well-being of persons or property within the Township.

5.0 Responsibility of the Permit Holder:

- 5.01 Any person who sets an open fire in the Township 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) assume full responsibility for conducting the controlled burning in accordance with the safety measures required by the fire services as well as the *Forest Fires Prevention Act*, the *Environmental Protection Act*, and/or other statutes or regulatory bodies having jurisdiction;
 - (iii) attend the fire at all times or ensure that it is attended by an adult person;
 - (iv) permit only one (1) fire to be burning at a time with the exception of registered campgrounds or trailer camps/parks.

6.0 Cancellation of a permit:

- 6.01 A burn permit may be cancelled or suspended at any time by the Fire Chief, his/her designate.
- 6.02 Upon receiving written or verbal notice of such cancellation or suspension of the burn permit, the permittee or adult person shall extinguish any open fire started under the permit. Once a permit has been cancelled, the permittee shall obtain a new permit for any subsequent open fire.

7.0 Exemptions:

- 7.01 Township and Township departments may be exempt if approval is obtained from the Fire Chief or his/her designate and the fire is used for education, training or in the interest of public safety.

8.0 Enforcement:

- 8.01 This By-law may be enforced by the Fire Chief and or designate.
- 8.02 **Obstruction:** No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.

- 8.03 **Additional charges:** A response to an unapproved open air burning and/or a malicious, nuisance or false alarm will result in additional charges outlined in Establish Fees and Charges for Services and Activities Provided by the Township of Hamilton and for Use of its Property.

Any person who sets an open fire in the Township 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.

9.0 **Miscellaneous Provisions:**

- 9.01 **Acts or Omissions:** No action or other proceedings for damages shall be instituted against the Fire Chief, his/her designate of Township of Hamilton for an act or omission by him/her in good faith in the execution of any power or duty under this By-law.

- 9.02 **Environmental Protection Act:** Nothing in this By-law releases any person from complying with all other applicable laws including but not limited to the *Environmental Protection Act* and its regulations.

- 9.03 **Conflicts:** Where provisions of this By-law conflict with the provisions of any other Township By-law, the provisions of this By-law shall prevail.

- 9.04 **Permit Refusal** An application for a permit may be refused by the Fire Chief or his/her designate if there has been a past contravention of the By-law by the permittee. The Fire Chief or his/her designate has the sole and absolute discretion in determining if a permit is issued.

- 9.05 **Revoke:** The Fire Chief and/or his/her designate shall revoke the issued burn permit of any person who contravenes any provisions of this By-law.

- 9.06 **Invoices:** Any person so invoiced shall pay the costs as invoiced forthwith.

By-law 2014-19 open Air Burn By-law (amended by: Resolution 2017-55/By-law 2018-21)

9.07 **Cost Recovery:** Where Section 8.03 of this By-law is invoked, all costs associated with the work may be added to the tax roll of the property to which the offence occurred, and shall be collected in the same manner as municipal taxes pursuant to the *Municipal Act 2001*, c. 25, s. 398 (2)

By-law No. 2006-26 is hereby repealed.

This by-law shall come into full force and effect upon the final passing thereof.

READ A FIRST and SECOND TIME THIS 18th DAY OF MARCH 2014.

READ A THIRD TIME AND FINALLY PASSED THIS 18TH DAY OF MARCH 2014.

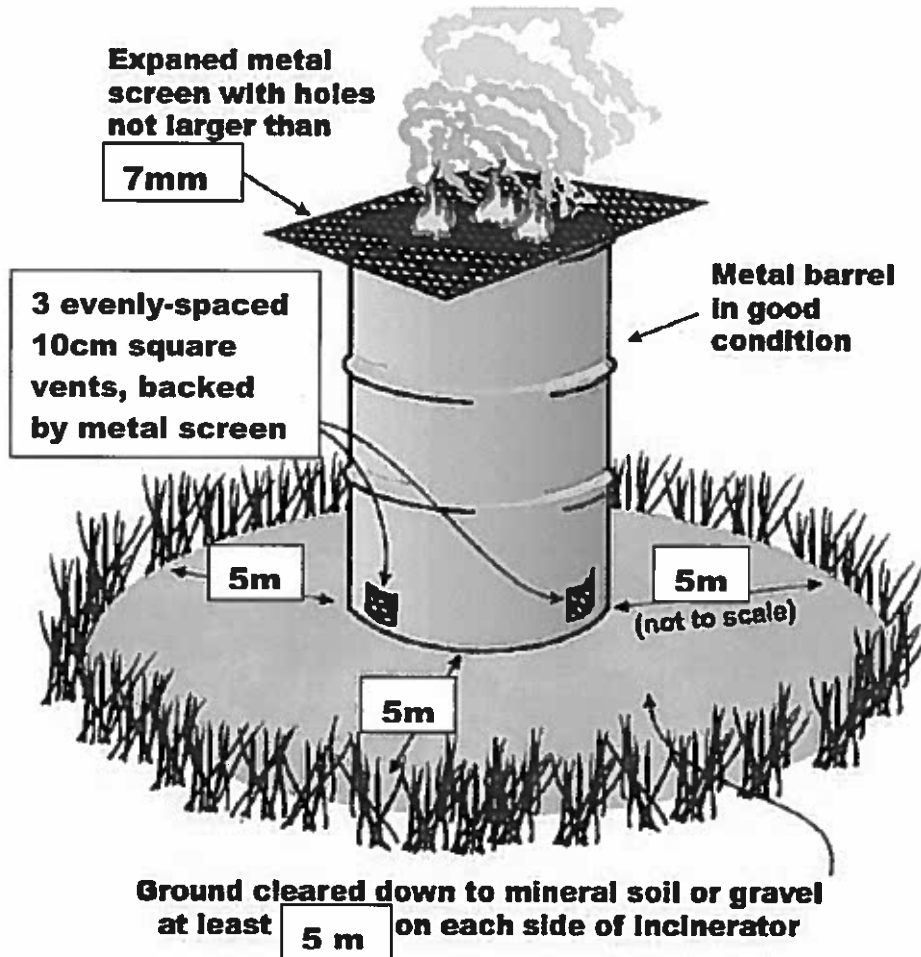
Original signed by-law filed in the Clerk's office.

Mark Lovshin, MAYOR

K. Surerus, CLERK

Schedule "A" attached to By-law 2014-19

A Drawing of an acceptable Burn Barrel Design



Schedule "B" attached to By-law 2014-19

Example of an Open Air Burning Enclosed Device

