

Halifax Regional Municipality
BY-LAW NUMBER O-109
Respecting Open Air Burning

BE IT ENACTED by the Halifax Regional Council that By-Law O-109 Respecting Open Air Burning is hereby enacted:

Title

1. This by-law shall be known as By-Law Number **O-109** and may be cited as the “Open Air Burning By-law.”

Definitions

2. In this By-Law:
 - (a) “**brush**” includes trees, wood, shrubs, bushes or branches;
 - (aa) “**burn day**” means a day during a fire season that is publicly announced as a day on which an individual or group of individuals may carry out domestic burning;
 - (ab) “**campfire**” means any open fire that burns no larger than 0.5 m in diameter and is intended for recreation and not for survival;
 - (ac) “**C.S.A.**” means Canadian Standards Association or its successors;
 - (ad) “**domestic burning**” means burning, for no remuneration, tree limbs or brush,
 - (i) no more than one pile which is no wider than 3 m in diameter and no taller than 2 m,
 - (ii) as a campfire,
 - (iii) while burning for blueberries within an area smaller than or equal to 2 ha, and
 - (iv) includes all outdoor wood burning appliances;
 - (b) “**domestic waste**” includes:
 - (i) leaf and yard waste including grass and grass clippings, twigs, and house and garden plants;
 - (ii) box board including cereal, shoe, tissue and detergent boxes; and
 - (ii) construction or demolition material, including saw dust, wood shavings, planking, siding, wood beams, plastic and rubber.

- (c) **“dry seasoned fire wood”** means wood that has not been chemically treated, stained or painted, and has been stored in a manner to deter dampness;
- (d) **“Fire Chief”** means the Chief Director of Halifax Regional Fire and Emergency or other person(s) designated by the Fire Chief;
- (da) **“Fire Season”** means the period of March 15th to October 15th or as determined from time to time by the Province of Nova Scotia as set out in the *Forest Fire Protection Regulations*;
- (db) **“industrial burning”** means burning that meets any of the following criteria:
 - (i) it is carried out by a person for remuneration,
 - (ii) it is carried out for agricultural purposes, including burning for blueberries within an area larger than 2 ha,
 - (iii) the material being burned is in more than one pile of any size,
 - (iv) the material being burned is wider than 3 m in diameter or taller than 2 m,
 - (v) it is carried out for land clearing;
- (dc) **“industrial burning permit”** means a permit to burn that authorizes the holder to carry out industrial burning;
- (e) **“Municipality”** means the Halifax Regional Municipality;
- (ea) **“non-burn day”** means a day during a fire season that is publicly announced as a day on which an individual or group of individuals may not carry out domestic burning;
- (f) Repealed
- (g) **“No Permit Required Zone”** means the areas designated as such by Administrative Order Number 33;
- (h) **“open air”** means not within a structure and includes:
 - (i) domestic burning,
 - (ii) industrial burning; and
 - (iii) an outdoor wood burning appliance that is not C.S.A. or U.L.C. approved;
- (i) **“outdoor wood burning appliance”** means an appliance manufactured to be used in the open air to burn wood, equipped with a spark arrester;

- (j) **“permit”** means a permit for burning in the open air issued by the Fire Chief under authority of this by-law;
- (ja) **“Permit Required Zone”** means the areas designated as such by Administrative Order Number 33;
- (k) **“person in charge of a fire”** includes the owner of the property upon which the burning is to take place, or the person who has the owner’s consent to conduct the burning, and the person who is conducting or directing the burning.
- (ka) **“restricted burn day”** means a day during a fire season that is publicly announced as a day which an individual or group of individuals may carry out domestic burning after 1900hrs (7:00 p.m.);
- (l) **“spark arrester”** means a device fitted to an outdoor wood burning appliance to prevent the release of sparks into the atmosphere or surrounding area; and
- (m) **“suitably equipped”** means being in possession of tools or equipment including, but not limited to, rakes, back tanks, shovels, hoses and an adequate water supply, sufficient to contain or prevent the spread of a fire ignited in the open air.
- (n) **“U.L.C.”** means Underwriters’ Laboratories of Canada or its successors.

Application of By-Law

- 3. This by-law shall apply throughout the Municipality.

Permit Requirements

- 4. (1) No person shall light or be in charge of an open air burning fire, or be the owner of a property on which an open air fire occurred, without first obtaining a permit except as otherwise provided in this by-law.
- (2) A HRM Burning permit is not required for burning in the “No Permit Required Zone”, as prescribed by Administrative Order Number 33. A Department of Natural Resources Domestic Burning Permit will be required during March 15th to October 15th in accordance with Provincial Regulations.

- (3) No permit is required for:
 - (a) a campfire in a public or private campground;
 - (b) burning in an enclosed C.S.A. or U.L.C. approved appliance; or
 - (c) natural gas or propane heating devices.
- (4) Fires for religious or ceremonial purposes are allowed in the Permit Required Zone, between March 15th and October 15th and shall require a burning permit, subject to any terms and conditions imposed by the Fire Chief.
- (5) The Fire Chief may issue a permit for the open air burning of brush to deal with any natural disasters, agricultural reasons or similar conditions or to deal with an infestation of insects or disease that pose a risk of damaging the natural resources of Halifax Regional Municipality in accordance with sections 5, 6, and 9 of this by-law and shall be subject to any terms and conditions imposed by the Fire Chief.
- (6) In cases of insect or disease infestations, documentation from the Federal or Provincial authority confirming the infestation and action to be taken, shall be provided to the Fire Chief, prior to the issuance of a permit.
- (7) The Fire Chief may specify the hours of the day and the number of days during which burning may be permitted.
- (8) Unless otherwise permitted in this by-law an industrial burning permit shall only be issued for industrial burning on a lot with a minimum area of 1 acre (43,560 ft² or 4,046 m²).

Permit Application

5.
 - (1) Pursuant to section 4, where a permit is required under this by-law, an application shall be made to the Fire Chief.
 - (2) Where the Fire Chief determines the proposed burning would pose a fire hazard to persons or property, or where there is a failure to meet the requirements of the by-law, the Fire Chief shall refuse to issue a permit.
 - (3) In making a determination under section 5(2), the Fire Chief may take into consideration:
 - (i) whether the applicant owns or is the occupant of the land upon which the burning is intended to occur or has written consent, produced prior to the issuance of the permit, of the owner of the

- (ii) land on which the burning will occur;
 - (iii) the prevalent weather conditions;
 - (iv) whether the applicant is suitably equipped to ensure the fire is maintained under control;
 - (v) whether the applicant is able to comply with the instructions set out in section 6; and
 - (vi) any other matter the Fire Chief determines relevant.
- (4) A permit may be revoked by the Fire Chief at any time where it is determined the proposed burning will pose a fire hazard to persons or property or where the conditions of the permit have not been met.

Burning Restrictions

6. (1) Open air burning shall only occur during the period of October 16th until March 14th in the "Permit Required Zone" in accordance with Administrative Order Number 33.
- (1a) Open air burning shall only occur during the period of March 15th to October 15th in accordance with the *Forest Fire Protection Regulations* categories: "Burn Day", "Restricted Burn Day", and "Non-Burn Day".
- (1b) The Department of Natural Resources 305m (1000ft) perimeter (distance from woods) shall be expanded to include the entire Municipality for "Burn Day", "Restricted Burn Day", and "Non-Burn Day".
- (2) At least two people nineteen (19) years of age or older must be present while burning is being conducted and in possession of a Municipal Burning Permit.
- (3) Open air burning shall not take place within 23 metres (75 feet) of any dwelling or accessory building.
- (4) No person shall burn rubber tires, oil, plastic, petroleum products or domestic waste.
- (5) No fire shall be ignited when the wind velocity may jeopardize the ability to control and contain the fire.
- (5a) From March 15th to October 15th no person or person in charge of a fire shall burn between 0001hrs (12:01 a.m.) and 1400hrs (2:00 p.m.).
- (5b) From October 16th to March 14th no person or person in charge of a fire

shall burn between 0001hrs (12:01 a.m.) and 0800hrs (8:00 a.m.).

- (6) Repealed.
- (7) A person in charge of the burning shall have the means to call 911 from the site.
- (8) The person in charge of a fire shall ensure that the fire is not left unattended and that all smouldering embers are completely extinguished prior to leaving the site after burning is completed.
- (9) No person shall ignite, allow or cause to be ignited, a fire of any kind in the open air without being suitably equipped to contain or extinguish the fire, and shall remain in attendance while the fire is burning or smoldering.
- (10) Where the Fire Chief determines that a fire poses a fire hazard to persons or property, or where there is a failure to meet the requirements of this by-law, the Fire Chief shall require the fire to be extinguished.
- (11) The person in charge of a fire may be required to pay all expenses incurred in controlling or extinguishing any fire which may get beyond control, is in danger of doing so, or extends to the lands of others.

Outdoor Wood Burning Appliances

7. Outdoor wood burning appliances whether CSA or ULC approved or not may be used throughout the Municipality without permit, subject to the following:
 - (a) manufacturer's instructions are followed;
 - (b) outdoor wood burning appliances are not placed on wooden decks or combustible platforms;
 - (c) the appliance is equipped with a spark arrester with no opening larger than 9.65 mm (3/8");
 - (d) only dry seasoned firewood is used;
 - (e) clearances of 4.75 metres (15 feet) are maintained from a dwelling or accessory building and;
 - (f) only one outdoor wood burning appliance is used on a property at a time.

Campfires

8. Campfires are permitted in the “No Permit Required Zone” throughout the year, but the following provisions shall apply:
 - (a) all campfires shall be contained, using non-combustible material, which will prevent the accidental spreading of the fire;
 - (b) Repealed.
 - (c) only dry seasoned firewood shall be used;
 - (d) clearances of 4.75 metres (15 feet) shall be maintained from a dwelling or accessory building; and
 - (e) only one campfire may be permitted on a property at a time.
- 8.1 Except within public or private campgrounds campfires are not permitted at any time in the “Permit Required Zone.”

Authority

9.
 - (1) The Fire Chief shall have the authority to extinguish or order extinguished any fire which poses a fire hazard to persons or property, or does not meet the provisions of this by-law.
 - (2) No person shall refuse to extinguish a fire pursuant to an order of the responding officer.

Industrial Burning

10.
 - (1) Contractors that conduct open air burning in the municipality on land being cleared for development or for insect infestation or disease control must obtain an industrial burning permit therefor, and in addition to any other requirements of this by-law, shall post a bond, irrevocable letter of credit or certified cheque in a form suitable to the Fire Chief from a bonding company or financial institution acceptable to the Fire Chief in the amount of ten thousand dollars (\$10,000.00).
 - (2) A bond posted pursuant to this clause shall be used to pay expenses arising under section 6 (11) of this by-law or any damages associated with

the fire getting beyond the control of the contractor; provided however, that the bond shall not absolve the contractor from any liability from the fire.

Fees

11. The fees for burning permits shall be established by Administrative Order Number 15.

Penalty

12. (1) Any person who fails to comply with a permit issued hereunder or any other provision of this by-law shall be liable to a penalty of not less than two hundred and fifty dollars (\$250.00) and not more than ten thousand dollars (\$10,000).
- (2) In addition to any fine or imprisonment imposed, the Court or Judge may order the person convicted to pay all expenses incurred in correcting the contravention of the by-law or any damages associated with such contravention.
- (3) Where any person is in contravention of any provision of this by-law, the Fire Chief may direct in writing that the contravention be remedied in the manner and within the time specified.
- (4) Upon the failure of the person to comply with such notice, the Fire Chief may order the remedy, and recover the cost of such work from the property owner.
- (5) The Municipality's cost to remedy the contravention pursuant to any provision of the by-law shall constitute a lien against the property owner which shall be applied and enforced in the same manner as for rates and taxes under the *Assessment Act* or the Halifax Regional Municipality Charter.

Repeal

13. Halifax Regional Municipality By-Law O-103, respecting Open Air Burning, is hereby repealed.

Done and passed in Council this 19th day of October, 2010.

Mayor

Municipal Clerk

I Cathy Mellett, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above-noted By-law was passed at a meeting of the Halifax Regional Council held on October 19, 2010.

Cathy Mellett, Municipal Clerk

Notice of Motion:	September 21, 2010
First Reading	September 28, 2010
Notice of Second Reading – Publication:	October 2, 2010
Second Reading:	October 19, 2010
Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	October 23, 2010

Amendment # 1 – (O-110)

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Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	September 13, 2014

Amendment # 2 – (O-111)

Notice of Motion:	November 22, 2016
First Reading:	December 6, 2016
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