


Halifax Regional Council
June 10, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Deputy Chief Administrative Officer

DATE: June 3, 2003

SUBJECT: By-Law O-104 - Respecting An Amendment to Open Air Burning By-Law

SUPPLEMENTARY REPORT

ORIGIN

At the Regional Council Meeting of May 13, 2003, By-Law O-103, Respecting Open Air Burning passed second reading. To further implement the details of By-Law O-103, Administrative Order No. 33 Respecting Open Air Burning was developed and introduced at the Council Meeting and approved.

Councillor Rankin then made Notice of Motion that at the next Regular Council Meeting on May 20, 2003 he proposed to move First Reading of By-Law O-104 to amend the distance parameters under which burning may be conducted outside the No Burn Zone.

RECOMMENDATION

1. It is recommended that Council approve the amendment by adding the word "adjacent" immediately before "dwelling" and maintain the 225' (68 meters) distance requirement for burning outside the No Burn Zone.

BACKGROUND

Prior to passing By-Law O-103 Respecting Open Air Burning, Section 4(e) of the By-Law stated that no person shall conduct burning on a property that is less than 1.5 acres in size outside the No Burn Zone. Council then directed staff to amend Section 4(e) after the word burning to read: no less than 225 (68 meters) from the nearest dwelling outside the No Burn Zone. This change was made and By-Law O-103 was passed at May 13, 2003 Council meeting along with approving Administrative Order 33 to implement the details of the By-Law O-103.

DISCUSSION

At the May 13, 2003 Council meeting, Councillor Rankin made Notice of Motion that at the next regular council meeting May 20, 2003 he proposed to move First Reading of By Law O-104, the purpose of which is to amend Section 4(e) of By-Law O-103, the Open Air Burning By-Law to amend the distance parameters under which burning may be conducted outside the No Burn Zone. The amendment would see the distance from dwellings reduced to 100' (30.5 meters) from 225' (68 meters) from dwellings on adjoining properties. At First Reading, Council requested that the word "adjacent" be added to Section 4(e) after the word nearest. The addition of this word was approved.

Staff have reviewed the distance parameters and note that open fires contained in outdoor wood burning appliance can be used and the distance requirements from combustibles is 15 ft. (4.57 meters). The use of an outdoor wood burning appliance limits the quantity or product that can be burned which helps to minimize the smoke by-product. In order to conduct the burning of brush, the volume and pile size is much greater than what is contained in an outdoor wood burning appliance and results in an increased volume of smoke emissions. It is for this reason that staff want to retain the distance of 225' (68 meters) in order to minimize the effects to residents that will result with this type of open burning.

BUDGET IMPLICATION - None

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN - None

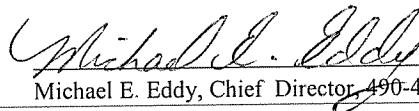
ALTERNATIVES - None

ATTACHMENTS By-Law O-103, Respecting Open Air Burning
Amendment By-Law O-104, Respecting Open Air Burning

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Darlene Ellis, Coordinator

Report Approved by:


Michael E. Eddy, Chief Director, 490-4238

HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER O-103
RESPECTING OPEN AIR BURNING

BE IT ENACTED by the Halifax Regional Council that By-Law O-103 Respecting Open Air Burning is hereby enacted:

Title

1. This By-Law shall be known as By-Law Number O-103 and may be cited as the "Open Air Burning By-Law".

Definitions

2. In this By-Law:
 - (a) "Domestic Waste" means leaf and yard waste and/or box board waste and/or waste material resulting from construction activities, including without limitation, grass clippings, twigs, house and garden plants, saw dust, wood shavings, planking, siding, wood beams, cereal, shoe, tissue, detergent, and frozen food boxes or other similar items.
 - (b) "Fire Chief" means the Chief Director of the Halifax Regional Fire & Emergency Service, the Captain or Chief Officer of a fire department or fire company, Fire Prevention Officers or other person designated by the Chief in and for the fire protection district of the Municipality in which the fire is proposed to be ignited or has been ignited.
 - (c) "Fire Protection District" means that area of the Municipality which a fire department or a fire company serves and for which it is responsible.
 - (d) "Municipality" means the Halifax Regional Municipality.
 - (e) "Permit" means a permit for burning in the open air issued by the Fire Chief under authority of this By-Law.
 - (f) "Suitably Equipped" means being in possession of tools or equipment, including without limitation, brooms, rakes, back tanks, shovels, hoses and an adequate water supply, which shall be used to contain and/or prevent the spread of a fire ignited in the open air.
 - (g) "Grate" means a metal rack supported on a non-combustible enclosure.

- (h) "No Burn Zone" means the area designated as such by Administrative Order Number 33.
- (i) "Open Air" means not within a structure.
- (j) "Person in Charge of a Fire" means the owner of the property upon which the burning is taking place, or the person who has the owner's written consent to conduct the burning.
- (k) "Outdoor Wood Burning Appliance" means an appliance used in the open air to burn wood. This does not include external wood furnaces.

Application of By-Law

- 3. (a) This By-Law shall apply to all areas of the Municipality and during the entire year.
- (b) Notwithstanding Section 3(a), a permit pursuant to this by-law is not required:
 - (i) during the fire season as established by the Department of Natural Resources, provided a permit issued by that department is obtained;
 - or
 - (ii) for burning in those areas prescribed by Administrative Order Number 33.

Prohibition

- 4. (a) Notwithstanding any other provision of this By-Law, but subject to Subsections 4(b), 4(c), and Sections 5 and 6, no person shall light, ignite or start or allow or cause to be lighted, ignited, or started, a fire of any kind whatsoever in the open air without first having obtained a permit to do so from the Fire Chief except in those areas identified pursuant to Clause 3(b)(ii) where a permit is not required.
- (b) Nothing in this By-Law shall prohibit the making of a fire by a person traveling in the woods for the purpose of cooking or obtaining warmth or as a distress signal if the fire is made in a suitable place and precautions are taken against the spreading of the fire.

- (c) A permit is not required to cook food in barbeques, grates, or other cooking devices. The requirements of Section 12(b)(e)(h)(j)(k)(l) and Section 13(a)(d)(e)(f)(g)(j)(m)(o)(p) shall apply.
- (d) Notwithstanding any other provision of this By-Law, but subject to Sections 5 and 6, no person shall light, ignite or start or allow or cause to be lighted, ignited or started, a fire of any kind whatsoever within the No Burn Zone.
- (e) Notwithstanding any other section of this bylaw but subject to sections 5, 6, 12 & 13 no person shall conduct burning no less than 225 feet (68 meters) from the nearest dwelling outside the No Burn Zone.
- (f) In the area outside the No Burn Zone of the Halifax Regional Municipality, contractors wishing to burn brush on land that has been cleared must apply for and receive a permit in respect of such burning and in addition to any other requirement of this By-law, in support of the application shall post a bond, irrevocable letter of credit or certified cheque in a form acceptable to the Fire Chief from a bonding company or financial institution acceptable to the Fire Chief in the amount of ten thousand dollars. A bond posted pursuant to this clause shall be used to pay any expenses arising under Section 12 (j) of this By-law or any damages associated with the fire getting beyond the control of the contractor, provided however that the bond pursuant to this clause shall not absolve the contractor from any liability resulting from the fire.

Outdoor Wood Burning Appliances

- 5. Outdoor wood burning appliances may be used throughout the Halifax Regional Municipality but the following provisions shall apply:
 - (a) The manufacturer's installation instructions are followed;
 - (b) They are not placed on wooden decks or combustible platforms;
 - (c) Only dry seasoned firewood shall be used as it burns with little or no smoke by-product;
 - (d) Clearances of 4.57 meters (15 feet) shall be observed in all directions from other combustible materials.
 - (e) These appliances shall not be used when the Department of Natural Resources or the Halifax Regional Municipality have placed a ban on all open air burning;

- (f) Only one outdoor wood burning appliance may be used on a property at a time;
- (g) The outdoor wood burning appliance must be of sufficient construction to withstand the effects of heating and cooling and must be constructed of non-combustible material which will prevent the accidental spreading of fire.

Exemptions

- 6. (a) Camp fires are permitted outside the No Burn Zone and in areas prescribed by Administrative Order Number 33 but the following provisions shall apply:
 - (i) All campfires shall be contained, using non-combustible material, which will prevent the accidental spreading of the fire;
 - (ii) Camp fires shall not exceed 600 mm (24 inches) in width at the largest point and shall not be piled higher than 460 mm (18 inches) in height;
 - (iii) Only dry seasoned firewood shall be used as it burns with little or no smoke by-product;
 - (iv) Clearances of 4.57 meters (15 feet) from other combustible material must be maintained;
 - (v) No campfires shall be permitted when the Department of Natural Resources or the Halifax Regional Municipality have placed a ban on all open air burning;
 - (vi) Only one campfire may be permitted on a property at a time;
 - (vii) Written permission from the property owner shall be obtained and available on site before having a campfire on any property when the individual controlling the fire is not the property owner.
- (b) For the purpose of campgrounds, both public and private, each individual camping lot will be considered a separate property.
- (c) Fires to be used for religious or ceremonial purposes shall require a burning permit and are not subject to the restriction of the no burn zone. Fires of this nature may exceed the 600 mm (24 inches) size restriction, providing all other clearance restrictions in Section 6 are met.

Authority

7. The responding officer shall have the authority to extinguish or order extinguished any fire (or fires) which poses a health or fire hazard to persons or property or does not meet the provisions of this By Law.

Special Burning

8. (a) This By-Law shall allow for the open air burning of trees, wood, shrubs, bushes or fields that have been determined to have an infestation of insects or disease that pose a risk of spreading to other areas or that pose a risk of damaging the Natural Resources of the Halifax Regional Municipality.
- (b) Open Air Burning pursuant to subsection 8(a) shall:
 - (i) require special permission from the Chief Director or designate of the Halifax Regional Fire & Emergency Service;
 - (ii) require a burning permit, and;
 - (iii) comply with the provisions of this By-Law.

Permit Application

9. (a) Where a permit is required under this By-Law, an application shall be made to the Fire Chief.
- (b) Where the Fire Chief determines that the proposed burning would be a hazard to safety or where there is a failure to meet the requirements of the By-Law, the Fire Chief shall refuse to issue a permit.
- (c) In making a determination under Section 9(b) the Fire Chief may take into consideration the following:
 - (i) The number of permits issued on a particular day;
 - (ii) The velocity of the wind;
 - (iii) The general weather conditions prevalent;
 - (iv) whether or not the applicant is suitably equipped to ensure the fire is maintained under control;
 - (v) The proposed manner and method of burning;

- (vi) Whether the applicant owns or is the occupant of the land upon which the burning is intended to occur, or has the written consent, produced prior to the issuance of the permit, of the owner of the land which the burning will occur;
 - (vii) Whether the applicant is 19 years of age or older and ensures that at least one other person, of 19 years of age or older, suitably equipped to control the fire, will be present while the fire is burning or smoldering;
 - (viii) Any other matter the Fire Chief determines relevant to safety.
- (d) A permit issued under the authority of this By-Law may be revoked by the Fire Chief at any time where it is determined that the proposed burning will pose a hazard to persons or property or where the conditions of the permit have not been met.
- (e) The Fire Chief may specify on the permit the hours of the day and the number of days during which the permit shall be valid, and in so doing, may distinguish between permits issued for commercial or other uses, but no permit shall be issued for a period exceeding fourteen (14) days.
- (f) The Fire Chief may designate the location where and the hours during which applications for permits shall be received.

Blueberry Fields

10. (a) A Permit shall be required for the burning of blueberry fields.
- (b) A Permit shall not be issued for the burning of blueberry fields in excess of two(2) hectares unless a Commercial Burning Permit has also been issued by the Department of Natural Resources.

Fees

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

Burning Restrictions

12. The following requirements shall apply at all times to the making of the fire for which a permit is issued:

- (a) The holder of the permit shall ensure that the permit is available for inspection at the scene of the fire.
- (b) No person shall burn rubber tires, oil, plastic, petroleum products, like materials or other Domestic Waste.
- (c) All material to be burned shall be piled and placed at least 15 meters (50 feet) from other combustible material or adjacent property line.
- (d) Where two (2) or more piles to be burned are situated on a single site, only one pile shall be burned at a time. The size of the pile will be at the discretion of the Fire Chief taking into account location, distance to combustibles, wind velocity as well as any other hazards deemed appropriate.
- (e) No fire shall be ignited when the wind is blowing of sufficient velocity such that it may jeopardize the permit holder's ability to control the fire.
- (f) The person to whom a permit was issued shall ensure that the fire is not left unattended and that all smoldering embers are completely extinguished after burning is completed.
- (g) The person to whom a permit is issued shall ensure that the method of burning and material burned is consistent with the information provided to the Fire Chief when the permit was issued.
- (h) The fire department shall be immediately notified if the fire is or appears to be getting out of control.
- (i) Burning of brush shall only be conducted outside the No Burn Zone during the period that a Provincial Burning Permit is not required. This is in effect seven days a week, between the hours of 08:00 hrs and 21:00 hrs. All fires shall be completely extinguished by 22:00 hrs. Permits issued are at the discretion of the local Fire Chief, based on the Provincial Forest Fire Index or any hazardous conditions that may cause a fire safety issue in their local area as covered in Section 9 of this By-Law.
- (j) The permit holder may be required to pay all expenses incurred in controlling or extinguishing any fire which may get beyond control or be in danger of doing so or extend to lands of others.

- (k) No person shall light, ignite, or start or allow or cause to be lighted, ignited or started, a fire of any kind whatsoever in the open air without being suitably equipped to contain or extinguish the fire.
- (l) No person shall refuse to extinguish a fire pursuant to an order/direction of the responding officer under Section 7 of this By-Law.

Requirements

13. Notwithstanding the provisions of this By-Law, the following requirements shall apply at all times to a fire in those areas prescribed by Administrative Order Number 33:
 - (a) No person shall burn rubber tires, oil, plastic, petroleum products, like materials or other domestic waste;
 - (b) All material to be burned shall be piled and placed 15 meters (50 feet) from other combustible material or adjacent property;
 - (c) Where two or more piles to be burned are situated on a single site, only one pile may be burned at a time. The size of the pile will be at the discretion of the Fire Chief taking into consideration location, distance to combustibles, wind velocity as well as any other hazards deemed appropriate;
 - (d) No fire shall be ignited when the wind is blowing of sufficient velocity that it may jeopardize the ability to control the fire;
 - (e) The Person in Charge of a Fire shall ensure that the fire is not left unattended and that all smouldering embers are completely extinguished after burning is completed;
 - (f) The Person in Charge of a Fire shall ensure that the method of burning and material burned is consistent with this By-Law;
 - (g) The Fire Department shall be notified immediately if the fire is or appears to be getting out of control;
 - (h) No burning shall commence before 17:00 hours and the fire must be extinguished by 22:00 hours of the same day during the burning season, as

established by the Department of Natural Resources. Burning may be conducted between the hours of 08:00 hours and 22:00 hours when such burning is to be conducted outside of the burning season.

- (i) The Fire Chief may specify the hours of the day and the number of days during which burning may be permitted;
- (j) 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 or be in danger of doing so or extends to lands of others;
- (k) At least two people nineteen (19) years of age or older must be present while the fire is burning or smoldering and both must be Suitably Equipped to control the fire;
- (l) If the person igniting the fire is not the owner of the land on which the burning is intended to occur, then written consent of the owner must be obtained before any fire is started;
- (m) Where the Fire Chief determines that a fire is or would be a hazard to safety or where there is a failure to meet the requirements of this By-Law, the Fire Chief shall require the fire to be extinguished or that the fire not be started;
- (n) The Person in Charge of a Fire must ensure that the burning does not pose a hazard to person or property;
- (o) No person shall light, ignite, or start or allow or cause to be lighted, ignited or started, a fire of any kind whatsoever in the open air without being suitably equipped to contain or extinguish the fire.
- (p) No person shall refuse to extinguish a fire pursuant to an order/direction of the responding officer under Section 7 of this By-Law.

Penalty

14. (1) Any person who fails to comply with any permit issued hereunder or any condition of such a permit, or any provision of this By-Law shall be liable to a penalty on conviction of not less than One Hundred Dollars (\$100) and not more than Five Thousand Dollars (\$5,000) or in default of payment, to imprisonment for a period not exceeding sixty (60) days.

(2) In addition to any fine or imprisonment imposed pursuant to Section 14 (1), 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 by that person in the manner and within the time specified in the written direction.

(4) Upon the failure of the person to comply with such notice the Fire Chief, where the notice is given by the Fire Chief, may order the remedy, and may recover the cost of such work from the property owner.

(5) The Municipality's cost to remedy the contravention pursuant to any provisions of this 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.

Compliance with Other Acts

15. Nothing in this By-Law serves to exempt any person from obtaining any license, permission, permit, authority or approval required by any other By-Law or regulation of the Municipality or any statute or regulation of the Province of Nova Scotia the more restrictive statute shall apply.

Repeal

16. The Halifax Regional Municipality By-Law O-101, respecting Open Air Burning, is hereby repealed.

Done and passed by Council this _____ day of _____ A.D., 2003.

Mayor

Municipal Clerk

I, Vi Carmichael, 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 _____, 2003.

Vi Carmichael
Municipal Clerk

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER O-104**

RESPECTING AN AMENDMENT TO THE OPEN AIR BURNING BY-LAW

BE IT ENACTED by the Council of the Halifax Regional Municipality that By-law O-103 the Halifax Regional Municipality Open Air Burning By-law be amended as follows:

1. (1) Clause (3) of Section 4 of said By-law O-103 is amended by deleting the numbers, words and symbols “225 feet (68 meters)” and by substituting therefor the numbers, words and symbols “100 feet (30.5 metres)” and by adding the word “adjacent” immediately before the word “dwelling”.