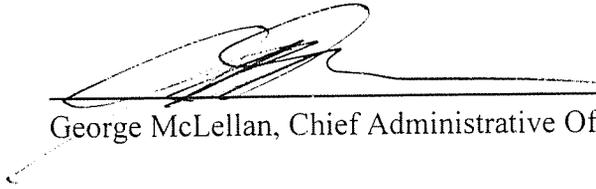


Halifax Regional Council
June 11, 2002

July 2, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer

DATE: June 5, 2002

SUBJECT: By-Law O-102 Respecting Open Air Burning

ORIGIN

At the Regional Council meeting of August 21, 2001, By-Law O-101 Respecting Open Air Burning passed First Reading. A Supplementary Report was requested from staff for the Second Reading seeking additional information regarding outdoor wood burning appliances.

At the October 2, 2001, Council Meeting, By-Law O-101 passed Second Reading and staff were requested to review and make recommendations for possible amendments to Sections 5, 6, & 12. At the November 7, 2001, Council Meeting, a Supplementary Report was submitted to Council addressing changes to Sections 5, 6, & 12. Further discussions of the By-Law resulted with staff being directed to re-examine issues and concerns raised at this meeting and report back to Council.

RECOMMENDATION

It is recommended that :

1. Council adopt, in principle, By-Law O-102 Respecting Open Air Burning as written and submitted.

BACKGROUND

By-Law O-101 was reviewed by staff, as directed by Council, to address areas raised at the Council Meeting of November 27, 2001.

DISCUSSION

Staff were directed to look at the following areas of By-Law O-101:

1) That a clause be added to provide an opportunity for commercial businesses to apply for a burning permit twice a year.

This clause has been added and can be found in Section 6 (d).

2) That burning be permitted in the rural areas during the period that a Provincial Burning Permit is not required, seven days a week, between the hours of 8:00 AM to 9:00 PM. All fires must be completely extinguished by 12:00 midnight. 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 areas as covered under Section 9.

This clause has been added and can be found in Section 12 (k).

3) That staff reword Section 4(d) to add the exception of tree stumps and to also add a new section 4 (e) to permit an applicant to file with the Fire Chief a Bond in the form satisfactory to the Fire Chief with a minimum value of \$10,000.

Section 4(d) has been reworded. A new Section 4(e) has also been added to permit an applicant to file a Bond.

4) That staff add a definition of a wood burning appliance to the By-Law and re-examine the definition of commercial burning.

The definition of wood burning appliance has been added and the definition of commercial burning has been revised.

5) Section 14 (2) and (3) has also been added to address the posting of the Bond.

In addition to the above changes, staff has increased the clearance distance from combustible materials for outdoor wood burning appliances and camp fires from 3 meters (10 feet) to 4.57 meters (15 feet) which is found in:

Section 5(d) Outdoor wood burning appliances increasing the clearance distance to 4.57 meters (15 feet) in all directions from other combustible materials.

Section 6 (a)(iv) Exemptions - Camp Fires to increase the clearance distance to 4.57 meters (15 feet) from other combustible material must be maintained.

BUDGET IMPLICATION

None

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

None

ALTERNATIVES

- 1) Leave By-Law O-101 as currently written.
- 2) Restrict Open Air Burning across HRM.

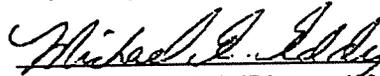
ATTACHMENTS

By-Law O-102, 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: Wayne Chapdelaine, Fire Prevention

Report Approved by:


Michael E. Eddy, Chief Director, 490-4238

BE IT ENACTED by the Halifax Regional Council that By-Law O-102 Respecting Open Air Burning is hereby enacted:

HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER O-102
RESPECTING OPEN AIR BURNING

Title

1. This By-Law shall be known as By-Law Number O-102 and may be cited as the "Open Air Burning By-Law".

Definitions

2. In this By-Law:
 - (a) "Commercial Burning" means burning that is being done on a commercial property or by a person being paid to conduct the burning on behalf of the property owner.
 - (b) "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.
 - (c) "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.
 - (d) "Fire Protection District" means that area of the Municipality which a fire department or a fire company serves and for which it is responsible.
 - (e) "Municipality" means the Halifax Regional Municipality.
 - (f) "Permit" means a permit for burning in the open air issued by the Fire Chief under authority of this By-Law.
 - (g) "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.
 - (h) "Grate" means a metal rack supported on a non-combustible enclosure.

- (i) "No Burn Zone" means the area located in the Halifax Regional Municipality that has water and sewer services and is otherwise referred to as the core or urban section of the Halifax Regional Municipality
- (j) "Open Air" means not within a structure.
- (k) "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.
- (l) "Wood Burning Appliance" means an appliance used in the open air to burn wood. The appliance must be of sufficient construction to withstand the effects of heating and cooling.
- (m) "Limited Burn Zone" means the area in the Halifax Regional Municipality that is serviced by Fire Stations two (2) to eighteen (18) that is outside the No Burn Zone.

Area of Application

- 3. (a) This By-Law shall apply to all areas of the Municipality.
- (b) Notwithstanding Section 3(a), a permit is not required for burning in those areas set out in Schedule "A" attached to and forming part of this By-Law.

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 in Schedule "A" 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)(f)(h)(j) and Section 13(a)(d)(e)(g)(j) 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 except a fire for the sole purpose of burning tree stumps in the open air.
 - (e) Before a permit is issued by the Fire Chief to permit the burning of tree stumps as referenced in Section 4(d), the applicant must file with the Fire Chief a bond, letter of credit, certified cheque or other like security in a form satisfactory to the Fire Chief with a minimum value of \$10,000, such security to be used by the Fire Chief to pay the costs and 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 and any damages caused by such fire should the applicant, upon demand, fail to do so.
 - (f) Notwithstanding any other section of this bylaw but subject to Sections 5 and 6, no burning shall be conducted in the Limited Burn Zone without first obtaining a burning permit from the Halifax Regional Fire & Emergency Service. Burning Permits shall only be granted outside of the fire season as established by the Department of Natural Resources.
 - (g) Notwithstanding any other section of this bylaw but subject to sections 5, 6, 12 & 13 no person shall conduct burning on a property in the Limited Burn Zone that is less than 1.5 acres in size.
5. Outdoor wood burning appliances may be used throughout the Halifax Regional Municipality without a permit, 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 Parks & Open Spaces 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;

Exemptions

- 6 (a) No permit is required for a camp fire, 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 Parks & Open Spaces 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.
 - (d) A commercial burner may apply by permit application twice per year to conduct burning in the No Burn Zone. A commercial Burning Permit may be issued to a commercial burner to conduct burning outside the regular fire season as established by the Department of Natural Resources.
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.
 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 through an Administrative Order from 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 under two(2) hectares.
- (b) A Commercial Burning Permit shall be required for:
 - (i) Blueberry burning in excess of two(2) hectares;
 - (ii) Any burning that an individual or contractor has been paid to do.

Fees

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

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.
 - (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) No burning shall commence before five o'clock p.m. (5:00) and fires must be extinguished by twelve o'clock am (midnight) of the same day except for Commercial Burning Permits which may, at the discretion of the Fire Chief, be issued to commence at eight o'clock a.m.(8:00).
 - (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) Burning of brush may be conducted in the coverage areas of fire stations 19 to 63 during the period that a Provincial Burning Permit is not required, seven days a week, between the hours of 8:00 a.m. and 9:00 p.m. All fires must be completely extinguished by 12:00 midnight. 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.
 - (l) 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.
 - (m) No person shall refuse to extinguish a fire pursuant to an order/direction of the responding officer under Section 7 of this By-Law.
13. Notwithstanding the provisions of this By-Law, the following requirements shall apply at all times to a fire in those areas set out in Schedule "A":
- (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 five o'clock p.m.(5:00) and the fire must be extinguished by twelve o'clock a.m.(midnight) of the same day;
- (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 thirty (30) 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.

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.

SCHEDULE "A"

A burning permit is not required in the following Fire Protection Districts:

Bay Road	Three Harbours
Cooks Brook	Mushaboom
Dutch Settlement	Musquodoboit Harbour
Meagher's Grant	Ostrea Lake
Middle Musquodoboit	Oyster Pond
Moser River	Tangier
Mooseland	Upper Musquodoboit
Sheet Harbour	

Done and passed by Council this _____ day of _____ A.D., 2002.

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 _____, 2002.

Vi Carmichael
Municipal Clerk