

MUNICIPALITY OF THE COUNTY OF KINGS



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BY-LAW # 63

OPEN BURNING AND SMOKE CONTROL

A By-law for the Municipality of the County of Kings, in the Province of Nova Scotia, to provide for the regulation of open air fires and nuisance caused by smoke.

WHEREAS the Municipal Government Act (Nova Scotia), provides that the Council of a municipality may pass by-laws for the health, well being, safety and protection of persons, safety and protection of property, and activities that may cause nuisances caused by burning, odours, and fumes.

AND WHEREAS the Council of the Municipality of the County of Kings wishes to regulate open air fires for the purpose of fire safety and to control the nuisance effect of such fires;

NOW THEREFORE, the Council of the Municipality of the County of Kings, duly assembled, enacts as follows:

SECTION 1 NAME OF BY-LAW

1.1 This By-law may be cited as the “Open Burning and Smoke Control By-law”.

SECTION 2 APPLICATION

2.1 This By-law shall be applicable to domestic and open-air burning within the boundaries of the Municipality of the County of Kings, including all Villages and Urban Centers, but excluding the Towns’ of Wolfville, Kentville, and Berwick.

SECTION 3 DEFINITIONS

3.1 In this By-law:

- (a) “*acceptable fire pit*” means an outdoor receptacle which is constructed from bricks, concrete blocks, heavy gauge metal, stone or other suitable non-combustible components;
- (b) “*Administrator*” means the person authorized to administer this By-law pursuant to Section 7;
- (c) “*debris*” means brush, trees, stumps, and root mat, the result of land clearing for land development or agricultural purposes or any disturbed or undisturbed vegetative matter targets for management or disposal by open burning;

- (d) *“decorative wood burning appliance”* means a manufactured chiminea, or steel appliance designed and fabricated for the purposes of burning clean wood for pleasure and ambience in an outdoor area.
- (e) *“household hazardous waste”* or *“HHW”* means hazardous waste materials generated in households including, but not restricted to, solvents, glues, cleaners, paints and finishes, asphalt sealers, gasoline, diesel, kerosene, pesticides, lawn and garden chemicals, poisons, propane tanks, roofing tar, pool chemicals, lubricating oil, batteries and automotive fluids.
- (f) *“leaf and yard waste”* means grass clippings, leaves, brush, twigs, house and garden plants, sawdust and wood shavings and other similar items.
- (g) *“Municipality”* means the Municipality of the County of Kings.
- (h) *“nuisance”* means the causing of any smoke or other emissions from any fire permitted under this By-law or otherwise, that adversely affects the reasonable enjoyment by other persons on their property as determined by the Administrator.
- (i) *“outdoor furnace”* means an outdoor wood or solid fuel burning appliance used for space heating buildings.
- (j) *“portable barbequing appliance”* means any appliance used for the purpose of cooking food outdoors, normally fuelled by liquefied petroleum gas, natural gas, compressed briquettes or charcoal.
- (k) *“prohibited material”* means domestic or commercial waste, construction and demolition debris, plastics, paint, paper, cardboard, boxboard, treated lumber, railway ties, manure, rubber, asphalt, asphalt products, fuel and lubricant containers, biomedical waste or tires that are required to be recycled or disposed in accordance with current waste management practices established by the Valley Solid Waste Resource Management By-law.
- (l) *“property owner”* or *“owner”* has the same meaning as “owner” in the Municipal Government Act and, for greater certainty, includes a landlord, a lessor, an owner, the person giving or permitting the occupation of premises, his, her and their heirs and assigns and legal representatives and, in the case of a corporation, the officers and directors of that corporation;

SECTION 4 PROHIBITED BURNING

4.1 No person anywhere within the Municipality, including within the boundaries of any Village, shall be permitted to burn, in any manner, whether indoors or outdoors, any prohibited material, hazardous household waste, leaf or yard waste, food waste, or otherwise create a nuisance on any lands owned or occupied by any person, or on any other lands within the boundary of the Municipality.

4.2 No person anywhere within the Municipality, including within the boundaries of any Village, shall be permitted to burn grass.

4.3 No person or organization is permitted to burn any building or structure for the purpose of demolition without the written consent of the Minister of Environment Nova Scotia and in accordance with Air Quality guidelines.

SECTION 5 PERMITTED OUTDOOR FIRES

5.1 Persons shall be permitted to cook food using a permanent or portable barbequing appliance, or other food preparation appliances designed for outdoor use within all areas of the Municipality.

5.2 An Outdoor Furnace shall be permitted within the boundaries of the Municipality, including Villages provided that:

(a) the Outdoor Furnace:

- (i) meets the requirements of a Development Permit issued by the Municipality, if required; and
- (ii) is located to reasonably prevent smoke and products of combustion from creating a nuisance on adjoining properties; or

(b) the Outdoor Furnace existed prior to approval of this By-law;

5.3 Within the Municipality, including all Villages and the Urban Centers, the burning of fire wood, and/or milled wood free from coatings and preservatives within an acceptable fire pit or decorative wood burning appliance or device for pleasure and ambience is permitted provided that:

- (a) The acceptable fire pit is located no closer than 10 feet (3m) from any building, shed, garage, out building, needle bearing trees, or property line;
- (b) The fire does not create a nuisance;
- (c) An adult responsible for the fire, minimum 19 years old, is present on the property while the fire is burning and until the fire is extinguished;
- (d) A fire extinguisher or other means of extinguishing a fire is within reasonable distance from where the fire pit or wood burning appliance is located;
- (e) It is not operated on a wood deck, and
- (f) If it is a decorative wood burning appliance, it is operated in compliance with the manufacturer's specifications for use and operation.

5.4 Within the Municipality, including all Villages and Urban Centers, outdoor fires for the purpose of burning small amounts of brush or woody debris in a pile with dimensions not exceeding 10 feet x 10 feet by 6 feet high (3 m square by 2 m high) and burns within the Department of Natural Resources time of day burn restrictions is permitted provided that:

- (a) The pile is located no closer than 40 feet (12m) from any building, shed, garage, outbuilding, or property line;
- (b) The fire and the smoke it generates does not create a nuisance;
- (c) A responsible adult is present on the property while the fire is burning and until the fire is extinguished;
- (d) A fire extinguisher or other means of extinguishing a fire is within reasonable distance from where the outdoor fire is located;

SECTION 6 LARGE OPEN AIR BURNING RESTRICTIONS

6.1 The open air burning of debris resulting from land clearing and agricultural activities is permitted at any time throughout the Municipality including within the boundaries of the Villages and Urban Centers, with the following restrictions:

- (a) The property owner complies with the Department of Natural Resources Forests Act of Nova Scotia, as applicable;
- (b) At least one person nineteen (19) years of age or older is present while burning occurs;
- (c) The debris is open burned on the parcel of land from which it originated;
- (d) Substances which normally emit dense smoke or noxious odours, and those prohibited in section 4.1 are not included with debris that is open burned;
- (e) An open burning ban or restrictions to the time of day by the Department of Natural Resources or any other fire protection agency having jurisdiction is not in effect;
- (f) The open burning complies with any applicable municipal by-law or provincial law that has the effect of being more restrictive than this regulation;
- (g) No open burning shall be permitted within 300 feet (100 m) of any residential, commercial, or school occupancy; and;
- (h) All debris to be burned is constructed into piles that are of a size that is within the ability of the individual responsible for the fire to control or extinguish the fire

with the means at their immediate disposal and prevents smoke from creating a nuisance to adjoining properties.

SECTION 7 FIRE SAFETY

7.1 At all times, a person in charge of a fire shall:

- (a) Have the means to call 911 for assistance from the site;
- (b) Shall ensure that the fire is not left unattended and that all smouldering embers are extinguished prior to leaving the site after burning is completed; and
- (c) 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 smouldering.

7.2 The Manager of Protective Services is appointed as the Administrator of this By-law. Where the Administrator or his/her designate determines that a fire poses a fire hazard or a nuisance to persons or property, or where there is a failure to meet the requirements of this By-law, the Administrator or his/her designate shall require the fire to be extinguished.

7.3 In any event, the local fire chief or his/her designate, within their fire district, has authority under the Fire Safety Act to control fires they deem to be a fire risk or unsafe practices.

SECTION 8 OFFENCE AND PENALTIES

8.1 Any person who contravenes or fails to comply with any of the provisions of this By-law or fails to carry out an order made under this By-law is guilty of an offence and is liable upon summary conviction to a fine 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.

8.2 A person alleged to have violated this By-law given notice of the alleged violation may pay a penalty in the amount of \$100.00 to the MUNICIPALITY OF THE COUNTY OF KINGS; provided that, said payment is made within a period of fourteen (14) days following the day on which the alleged violation was committed, and where the said notice so provides, payment shall be in full satisfaction, releasing and discharging all penalties and imprisonments incurred by the person for said violation.

8.3 In addition to any fine or imprisonment imposed pursuant to subsection 8.1(1), the Court or judge may order the person convicted to pay all expenses incurred in correcting the contravention of this By-law or any damages associated with such convention.

By-law History

Enacted June 5, 1988

Amended July 2, 1991
 June 6, 1995
 October 3, 1995
 January 2, 1996
 May 1, 2007
 May 27, 2014
 February 4, 2015