

The Corporation of The Township of Huron-Kinloss



Consolidated Open Air Burning By-Law

Effective Date: December 19th, 2016

Consolidated For Convenience Only

The amending by-laws have been combined with the original by-law for convenience only. This consolidation is not a legal document. Certified copies of the original by-laws should be consulted for interpretations and applications of the by-laws on this subject.

The by-law numbers referenced in this consolidation refer to the by-laws that amended the principal by-law number 2016-139.

Latest revision date: February 13th, 2017

2016-139 as amended by the following amendments

By-Law Number	Section(s) Affected	Date By-Law Passed
2017-12	21.1, 1.0, 20 (f)	February 13 th , 2017

BY-LAW

2016-139

Being a by-law to regulate open air burning within
the Township of Huron-Kinloss

WHEREAS the Council of the Township of Huron-Kinloss deems it necessary and desirable to adopt an Open Air Burning By-law;

AND WHEREAS section 7.1(1)(b) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended (the "Act"), states that a council of a municipality may pass by-laws regulating the setting of open Fires , including establishing the times during which Open Air Fires may be set;

AND WHEREAS section 7.1(3) of the Act states that a by-law under that section may deal with different areas of municipality differently;

AND WHEREAS section 7.1(4) of the Act states that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with that section are being complied with;

NOW THEREFORE the Council of The Corporation of the Township of Huron-Kinloss enacts as follows:

Definitions

1. In this By-law:

"**Act**" means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended;

"**Approve**" shall have the same meaning as defined in the Ontario Fire Code, Ontario Regulation 213/07

"**Approved Fire Pit**" means:

- (a) a pit dug into the ground or made from stones, masonry, steel or other fire resistant material used for the purposes of containing a recreational fire of which the interior dimensions shall be no larger than one metre by one metre; and,
- (b) above-ground pre-manufactured chimineas and other like receptacles designed and constructed for the purposes of containing a small Recreational Fire.

"**Barbeque**" means a gas or propane powered appliance that is designed and intended for the sole purpose of cooking food in the open air; and includes a hibachi but does not include devices designed for personal warmth, fire pits or camp fires;

"**Beach Fire**" means an Open Air Fire on the pebbly or sandy shore (the beach) of Lake Huron;

"**Building**" means:

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto; and,
- (c) structures designated in the *Building Code*, as amended;

“Chief Fire Official” means the appointed Fire Chief of the Township of Huron-Kinloss under provisions of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended; for any or all Fire Department catchment areas as designated by Council, or his or her designate;

"Council" means the Council of The Corporation of the Township of Huron-Kinloss;

"Fire Ban" means a partial or total ban against any Open Air Fire in the Township as declared by the Chief Fire Official;

“Firewood” means clean, dry wood that has not been treated, painted or otherwise exposed to toxic material, cut to a maximum of 60 cm (24 inches) in length so as to be easily situated in an Approved Fire Pit;

"Flying Lantern" means hot air balloon made out of paper, or other material, commonly known as Chinese lanterns, sky lanterns, sky candles, wish lanterns, Hawaii lanterns or Konming lanterns;

"Municipal Law Enforcement Officer" means a person appointed by the Township under s. 15 of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended;

"Open Air Fire" means any fire that takes place outside of a Building or structure;

"Owner" means the registered owner of a property;

“Permit” means a permit issued by the Chief Fire Official to permit a person to set, light, ignite and maintain an Open Air Fire;

"Person" means an individual or corporation;

"Prohibited Material" means materials that are, but not limited to, automobile and truck bodies, tires, oil, grease, paint, rags, plastics, wire, leaves, asphalt shingles, rubber, construction materials, insulation, and flammable or combustible liquids or accelerants;

“Recreational Fire” means an Open Air Fire that complies with the provisions of section 20 of this by-law, but does not include a Beach Fire;

"Settlement Area" means the Primary Urban Community of Lucknow and Ripley, the Secondary Urban Community of Lakeshore and the Hamlet Community of Amberley, Holyrood, Kinloss, Kinlough, Pine River and Whitechurch as defined in accordance with the Township's Official Plan;

“Tenant” means a person who holds, occupies, or possesses a property by any kind of right or title, such as from a landlord under a lease for at least (3) months;

"Township" means The Corporation of the Township of Huron-Kinloss;

General Prohibitions

2. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, at any time, without first obtaining a Permit, unless it is a Recreational Fire.
3. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, at any time, in a Settlement Area, unless it is a Recreational Fire.
4. No person shall offer for sale, set, light, ignite or maintain a Flying Lantern, or permit a Flying Lantern to be sold, set, lit, ignited or maintained, at any time.
5. No person shall leave an Open Air Fire unattended or unsupervised at any time.
6. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, before sunrise or after sunset, unless it is a Recreational Fire or a Beach Fire.
7. No person shall light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, in an area that could potentially endanger any Buildings or structures or any persons located nearby, in or occupying those Buildings or structures.
8. No person shall use, or cause to be used, any Barbeque of any kind on any balconies of multi-residential Building.
9. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited or maintained, which creates a nuisance for any person such as, but not limited to:
 - (a) excessive smoke or odour;
 - (b) a decrease in visibility on any highway; or,
 - (c) a rapid spread of fire through grass, brush or any wooded area.
10. No person shall set, light, ignite, or maintain an Open Air Fire, or permit an Open Air Fire to be set, lit, ignited, or maintained, during a Fire Ban.

Fire Bans

11. The Chief Fire Official may declare a Fire Ban in the Township at any time by posting a notice of the Fire Ban on the Township's official website prior to or at the time of the Fire Ban taking effect.

Permits

12. An application for a Permit under this by-law shall be in the form prescribed by the Chief Fire Official.
13. No person under the age of eighteen (18) years may apply for, or obtain, a Permit.
14. Following the receipt of an application for a Permit, the Chief Fire Official may approve or refuse a Permit or may approve a Permit with such conditions as are necessary, as determined by the Chief Fire Official.
15. Permits shall expire on December 31st of each year.
16. The Chief Fire Official may suspend or revoke a Permit at any time:
 - (a) for non-compliance with this by-law;
 - (b) for non-compliance with one or more of the conditions of the Permit; or

- (b) if a dangerous condition exists at or near the proposed site for the Open Air Fire.
17. All Permits shall be deemed to be suspended during a Fire Ban. At the discretion of the Chief Fire Official, Recreational Fires or Beach Fires may be exempted from a Fire Ban and this section.

Open Air Fire Regulations

18. In order to obtain a Permit, the property on which the Open Air Fire is to occur must comply with the following, except if it is a Recreational Fire or a Beach Fire:
- (a) the property must be outside of any Settlement Areas;
 - (b) the property must have a lot size greater than 1 acre (0.4047 hectares); and,
 - (c) the sole purpose of the Open Air Fire must be the disposal of materials other than Prohibited Materials.
19. A person who obtains a Permit, shall comply with the following regulations at all times, except if the Permit relates to a Recreational Fire or a Beach Fire:
- (a) Open Air Fires shall not be set, lit, ignited or maintained, within 100 feet (30 meters) of any Building or structure, grass, grain field, bush, or wood lot;
 - (b) Open Air Fires shall not exceed 20 feet (6 meters) in diameter, or an area of 20 ft. x 20 ft. (6m x 6m);
 - (c) the stacked height of the materials to be burned in an Open Air Fire shall not exceed 6 feet (2 meters);
 - (d) Open Air Fires shall not be set, lit, ignited or maintained, if winds exceed 10mph (16 km/h);
 - (e) prior to setting, lighting or igniting an Open Air Fire, the person who obtained the Permit shall notify the Chief Fire Official; and,
 - (f) appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plows) shall be on-hand at all times during the preparation of the Open Air Fire, while the Open Air Fire is underway, and until the Open Air Fire is fully and completely extinguished.
20. Recreational Fires shall comply with the following regulations at all times:
- (a) Recreational Fires must be in Approved Fire Pits;
 - (b) Recreational Fires shall not exceed 3.28 feet (1 meter) in diameter, or an area of 3.28 ft. x 3.28 ft. (1m x 1m);
 - (c) the stacked height of materials being burned in a Recreational Fire shall not exceed 3.28 feet (1 meter) in height;
 - (d) Recreational Fires may only be used for warmth or the cooking of food;
 - (e) only Firewood may be used as the combustible material in a Recreational Fire;
 - (f) Recreational Fires shall not be set, lit, ignited or maintained, within 10 feet (3 meters) of any Building or structure, grass, grain field, bush, or wood lot;

- (g) Recreational Fires shall not be set, lit, ignited or maintained if winds exceed 10 mph (16 km/h);
- (h) appropriate extinguishing agents (e.g. water hose, sand, fire extinguishers, tractors and/or plows) shall be on-hand at all times during the preparation of the Recreational Fire, while the Recreational Fire is underway, and until the Recreational Fire is fully and completely extinguished; and,
- (i) Recreational Fires shall only be set, lit, ignited or maintained on a property with the consent of the Owner and evidence of such consent shall be provided to the Township, in writing, upon request, or else the Recreational Fire shall be immediately extinguished.

Beach Fires

21. Notwithstanding any other provision of this by-law:

- (a) one must apply for and obtain a Permit for a Beach Fire in accordance with the provisions of this by-law;
- (b) only Owners or Tenants who have been Owners or Tenants within the Township may apply for and obtain Permits for Beach Fires;
- (c) Beach Fires shall comply, at all times, with the provisions of sections 20(a) to 20(h) of this by-law and, where those provisions use the term "Recreational Fires", for the purposes of this section, the term "Beach Fires" shall be substituted;
- (d) Beach Fires shall not be located on the beach so as to disturb pedestrians, vegetation or sand dunes; and,
- (e) Beach Fires shall be completely extinguished following their use, the area surrounding the Beach Fire shall be cleaned and cleared of all waste or refuse, and the extinguished Beach Fire shall then covered with sand.

21.1 Upon application in writing to the Chief Fire Official, an individual applying for an Open Air Fire Permit may request specific exemptions from the requirements contained within the Open Air Burning By-Law Number 2016-139. The Chief Fire Official is hereby given authority to approve reasonable exemptions under the By-Law within their sole discretion and may require specific conditions of the exemption as determined by the Chief Fire Official. Exemptions will be for a specified time period and will be written in detail on the issued Fire Permit. Exemptions shall only be considered for Agricultural, Construction or Forestry related business operations.

Exemptions

22. This by-law shall not apply to:

- (a) the Township of Huron-Kinloss;
- (b) the Fire Department of the Township for the purposes of live fire training exercises and operational requirements; or,
- (c) the County of Bruce.

Inspection

23. A Police Officer, Municipal Law Enforcement Officer and/or the Chief Fire Official may enter upon land and/or into structures at any reasonable time to inspect the land and/or structures to determine whether this by-law is being complied with.

24. Prior to a Permit being issued under this by-law, the Chief Fire Official may

require an inspection of the property for which an Open Air Fire Permit is being applied and/or inspect the materials that are proposed to be burned.

Order to Discontinue Activity

25. If the Township is satisfied that a contravention of this by-law has occurred, the Township may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity.
26. An order made under s.25 of this by-law shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - (b) the date by which there must be compliance with the order.
27. Any person who contravenes an order under s. 25 of this by-law is guilty of an offence.

Work Order

28. If the Township is satisfied that a contravention of this by-law has occurred, the Township may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.
29. An order under s. 28 of this by-law shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - (b) the work to be done to correct the contravention and the date by which the work must be done.
30. An order under s.28 of this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present prior to the date on which this by-law came into force.
31. A person who contravenes an order under s.28 of this by-law is guilty of an offence.

Remedial Action

32. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the Township may, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense.
33. The Township may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
34. The costs outlined in s. 33 of this by-law shall include interest calculated at a rate of 15 per cent or such lesser rate as may be determined by the Township,

calculated for the period commencing on the day the Township incurs the costs and ending on the day the costs, including the interest, are paid in full.

35. The amount of costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under s. 34 to the date the payment is made. Upon receiving the payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office.

Enforcement

36. This by-law may be enforced by Municipal Law Enforcement Officers, the Chief Fire Official or Police Officers.

Penalties

37. Any person who contravenes a provision of this by-law is guilty of an offence and, upon conviction, is liable to a fine and as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
38. When a person has been convicted of an offence under this by-law, any court of competent jurisdiction thereafter may, in addition to any other penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Fees & Charges

39. Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.
40. Annual fees may be charged for each Permit application in accordance with the Township's current Consolidated Fees By-law.
41. Every person who contravenes this by-law, or who fails to extinguish an Open Air Fire once ordered to do so by the Chief Fire Official, shall, in addition to any penalty provided herein, be liable to the Township for all expenses incurred for the purpose of investigating, controlling and extinguishing the Open Air Fire which includes all expenses relating to vehicles, wages or other firefighting costs, and such expenses may be recovered by Court action or in a like manner as municipal taxes.

Short Title

42. This by-law shall be known as the "Open Air Burning By-Law".

Severability

43. If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

Coming Into Force

44. This by-law shall come into force and effect upon the date in which it is passed by Council.

Repeal

43. The Township of Huron-Kinloss By-Law No. 2016-93 shall be repealed upon the passing of this by-law.

Read, Enacted, Signed and Sealed this 19th day of December, 2016.

Original Signed by Mitch Twolan

Mayor

Original Signed by Sonya Watson

Clerk

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2016-139 of the Township of Huron-Kinloss, attached hereto are the set fines for those offences. This Order is to take effect February 14, 2017.

Dated at London this 14th day of February, 2017.



Stephen J. Fuerth
Regional Senior Justice
West Region

PART I - PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence (Section(s))	COLUMN 3 Set Fine
1.	Operating an open air fire without a permit	s. 2	\$250.00
2.	Operating an open air fire in a settlement area	s. 3	\$250.00
3.	Operating and/or selling a flying lantern	s. 4	\$250.00
4.	Failing to attend to or supervise an open air fire	s. 5	\$250.00
5.	Operating an open air fire before sunrise or after sunset	s. 6	\$250.00
6.	Operating an open air fire which endangers buildings, structures, people	s. 7	\$250.00
7.	Operating a barbeque on a balcony of a multi-residential building	s. 8	\$250.00
8.	Operating an open air fire which causes smoke, odour, decreased visibility or spread of fire	s. 9	\$250.00
9.	Operating an open air fire during a fire ban	s. 10	\$250.00
10.	Operating an open air fire too close to building, structure, grass, grain field, bush or wood lot	s. 19(a)	\$250.00
11.	Operating an open air fire in excess of size	s. 19(b)	\$250.00
12.	Stacked height of materials to be burned exceeds 2m	s. 19(c)	\$250.00
13.	Operating open air fire when wind exceeds 16 km/hour	s. 19(d)	\$250.00

14.	Failing to notify the Chief Fire Official prior to operating an open air fire	s. 19(e)	\$250.00
15.	Operating an open air fire without appropriate extinguishing agent on-hand	s. 19(f)	\$250.00
16.	Operating a recreational fire in a non-approved fire pit	s. 20(a)	\$250.00
17.	Operating a recreational fire in excess of size	s. 20(b)	\$250.00
18.	Stacked materials for recreational fire exceeds 1m	s. 20(c)	\$250.00
19.	Operating a recreational fire not used for warmth or cooking	s. 20(d)	\$250.00
20.	Operating a recreational fire not using firewood as the combustible material	s. 20(e)	\$250.00
21.	Operating recreational fire within 3m of building, structure, grass, grain field, bush or wood lot	s. 20(f)	\$250.00
22.	Operate recreational fire when winds exceed 16 km/hour	s. 20(g)	\$250.00
23.	Operating a recreational fire without appropriate extinguishing agent on-hand	s. 20(h)	\$250.00
24.	Setting a recreational fire without consent of property owner	s. 20(i)	\$250.00
25.	Operating a beach fire in a non-approved fire pit	s. 21(c)	\$250.00
26.	Operating a beach fire in excess of size	s. 21(c)	\$250.00
27.	Stacked materials for beach fire exceeds 1m	s. 21(c)	\$250.00
28.	Operating a beach fire not used for warmth or cooking	s. 21(c)	\$250.00
29.	Operating a beach fire not using firewood as the combustible material	s. 21(c)	\$250.00
30.	Operating beach fire within 3m of building, structure, grass, grain field, bush or wood lot	s. 21(c)	\$250.00
31.	Operate beach fire when winds exceed 16 km/hour	s. 21(c)	\$250.00
32.	Operating a beach fire without appropriate extinguishing agent on-hand	s. 21(c)	\$250.00
33.	Locating beach fire so as to disturb pedestrians	s. 21(d)	\$250.00

34.	Locating beach fire so as to disturb vegetation	s. 21(d)	\$250.00
35.	Locating beach fire so as to disturb sand dunes	s. 21(d)	\$250.00
36.	Failing to extinguish beach fire	s. 21(e)	\$250.00
37.	Failing to clean and clear area around beach fire of waste or refuse	s. 21(e)	\$250.00
38.	Failing to cover extinguished beach fire with sand	s. 21(e)	\$250.00

NOTE: Penalty provision for the offences indicated above is Section 37 of By-Law 2016-139, a certified copy of which has been filed.