



BY-LAW NO. 2021-27

BEING A BY-LAW TO PROVIDE FOR THE REGULATION OF OPEN AIR BURNING AND PRECAUTIONS TO BE TAKEN BY PERSONS SETTING FIRES

WHEREAS Section 9 of the *Municipal Act, 2001*, S. O. c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

WHEREAS Section 7.1(1) of the *Fire Protection and Prevention Act, S.O. 1997*, as amended, provides that a council of a municipality may pass by-laws to regulate fire prevention, including the prevention of the spreading of fires and whereas regulates setting of open fires, including establishing the times during which open air fires may be set;

NOW THEREFORE the council of the Corporation of the Township of Nairn and Hyman hereby enacts as follows:

1.0 DEFINITIONS

For the purpose of this by-law the following definition shall apply:

- 1.1 **“Campfire”** means a small fire set for the purpose of cooking. Can best be described as a fire no greater than 1 metre by 1 metre high and does not include barbeques.
- 1.2 **“Chief Fire Official”** means the Fire Chief as defined in the Fire Protection and Prevention Act or designate.
- 1.3 **“Fire Ban”** means a complete ban of all open fires. A fire ban is enacted by the Chief Fire Official or designate within the municipality by the authority of the Fire Prevention Act.
- 1.4 **“Fire Department”** means the Township of Nairn and Hyman Fire Department.
- 1.5 **“Fire Hazard, Low, Moderate, High or Extreme”** means a low, moderate, high or extreme fire hazard by the Chief Fire Official or designate.
- 1.6 **“Municipality”** means the Corporation of the Township of Nairn and Hyman.
- 1.7 **“Municipal Employee”** means an officer, servant or other employee of the municipality, including a volunteer fire fighter.
- 1.8 **“Open Air Fire”** means fires that are set outdoors and are not contained in the confines of a cooking device; fires that are set for the purpose of disposing of clean wood debris, including fires set in outside incinerators. Open air fires cannot be more than 2 metres in diameter by 2 metres high and open air fires does not include a campfire set for the purpose of cooking.

- 1.9 “**Person**” includes an association, firm, partnership or corporation.
- 1.10 “**Incinerator**” means a completely self-contained furnace for destroying trees, branches and clean wood waste and used to burn them to ash. Must have a chimney six (6) metres high and be securely supported.

2.0 GENERAL BURNING RESTRICTIONS

- 2.1 No person shall start a fire outdoors unless conditions will allow the fire to burn safely from ignition to extinguishment.
- 2.2 No person shall set any fire outdoors in the municipality except in the presence of a competent responsible adult person and a competent responsible person shall be constantly in attendance and in charge of any burning operation to prevent the same from spreading to or endangering property.
- 2.3 Any person who starts a fire outdoors or, if the person who started the fire is not present, a person in charge of the fire outdoors shall take all necessary steps to tend the fire, keep the fire under control and extinguish the fire before leaving the site.
- 2.4 No person shall start any fire to burn or shall burn outdoors any household kitchen garbage or construction materials or other materials made of or containing rubber, plastic, paint, petroleum, tar, chemical wastes, pressure treated wood, synthetic or man-made materials or any other materials considered to create excessive smoke or smell.
- 2.5 No person shall start or tend any fire outdoors when the wind conditions are such that it may cause any of the following:
- 2.5.1 A decrease in visibility on any highway or road.
- 2.5.2 The rapid spread of fire through grass, brush, forested area or other property that was not intended to be burned.
- 2.5.3 An adverse impact on other people or property.
- 2.5.4 The contravention of any municipal law, provincial or federal legislation.
- 2.6 No person shall start or tend a fire outdoors during a period of extreme fire hazard.
- 2.7 Notwithstanding any provisions herein, no person shall set or maintain a fire:
- 2.7.1 In contravention of the Ontario Fire Code, the Environmental Protection Act or any other statutory requirements of the Province of Ontario or the Government of Canada.
- 2.7.2 On any highway or municipal property within the municipality.
- 2.7.3 On any asphalt surface.
- 2.7.4 In any park owned or operated by the municipality without the written permission of the municipality.
- 2.8 No person shall start or tend an open air fire during a municipal fire ban or a restricted fire zone.

3.0 CONDITIONS FOR OPEN AIR BURNING

- 3.1 Except as provided in Section 4.1 of this By-law, no person shall start or tend a fire outdoors unless all of the following conditions are met:
- 3.1.1 The person is burning clean wood, brush, leaves or discarded wood by products.
 - 3.1.2 A responsible person is present to tend and supervise the fire until it is completely extinguished.
 - 3.1.3 The material is burned in a single pile that is less than 2 metres in diameter and less than 2 metres high.
 - 3.1.4 The fire is started not earlier than 7:00 p.m. in the evening and extinguished not later than 8:00 a.m. the following day or earlier.
 - 3.1.5 The fire is at least six (6) metres from any combustible structure(s) or object(s).
 - 3.1.6 The person tending the fire has tools or water adequate to contain the fire within the fire site.
 - 3.1.7 The Chief Fire Official has declared that there is a low fire hazard or moderate fire hazard.
 - 3.1.8 Open air fires are not permitted if the Chief Fire Official has declared a high or extreme fire hazard.
 - 3.1.9 Section 2.7 of this By-law also applies to this Section.
- 3.2 No person shall make or tend a fire in an incinerator unless all of the following are met:
- 3.2.1 The person is burning clean wood, brush, leaves or discarded wood by products.
 - 3.2.2 The incinerator is an enclosed device constructed entirely of non-combustible material.
 - 3.2.3 The incinerator is placed on base mineral soil, bare rock, concrete or non-combustible material of at least four (4) cm thickness, extending a minimum of thirty (30) cm beyond perimeter.
 - 3.2.4 The incinerator is at least six (6) metres away from any of the following combustibles: a) forest, b) woodland, and c) buildings/structures.
 - 3.2.5 The incinerator is at least six (6) metres away from any flammable materials.
 - 3.2.6 The outlet of the incinerator is covered with a screen having a mesh size of not more than five (5) millimetres.
 - 3.2.7 A responsible person is present to tend and supervise the fire until it is completely extinguished.
 - 3.2.8 The fire is started not earlier than 7:00 p.m. in the evening and extinguished not later than 8:00 a.m. the following day or earlier.

3.2.9 The Chief Fire Official has declared that there is a low fire hazard or moderate fire hazard.

3.2.10 Incinerator fires are not permitted if the Chief Fire Official has declared a high or extreme fire hazard.

3.2.11 The smoke does not cause an adverse impact on other people or property.

3.2.12 Section 2.7 of this By-law also applies to this section.

4.0 CAMPFIRES FOR COOKING

4.1 No person shall start or tend a campfire outdoors for the purpose of cooking unless all of the following conditions are met:

4.1.1 The fire does not exceed one (1) metre in diameter and one (1) metre in height.

4.1.2 A responsible person is present to tend the fire until the fire is extinguished.

4.1.3 The person tending the fire has tools and/or water adequate to contain the fire within the fire site.

4.1.4 The fire shall be surrounded by at least one (1) metre of non-combustible material.

4.1.5 The fire shall be at least six (6) metres from any combustible material and/or structures.

4.1.6 A municipal fire ban or restricted fire zone is not in effect.

4.1.7 It does not cause an adverse impact on other people or property.

4.1.8 The outlet of the campfire is covered with a screen having a mesh size of not more than five (5) millimetres.

4.1.9 The fire is started not earlier than 7:00 p.m. and extinguished no later than 8:00 a.m. the following day or earlier.

5.0 FIRE DEPARTMENT EXEMPT

5.1 Any fires under the direct and constant supervision and control of the Township of Nairn and Hyman Fire Department are exempt from the provisions of this By-law.

6.0 ENFORCEMENT, PENALTY AND RECOVERY COSTS

6.1 The Chief Fire Official, Deputy Fire Chief and the By-law Enforcement Officer are hereby authorized to enforce the provisions of this By-law to the Provincial Offences Act.

6.2 Pursuant to Section 7.1 (4) of the Fire Protection and Prevention Act, a municipality may appoint an officer to enter upon land and into structures at any reasonable time in inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with.

- 6.3 Every person who contravenes or fails to comply with any of the provisions of this By-law is guilty of an offence and on conviction is liable to the fines and other penalties prescribed by the Provincial Offences Act.
- 6.4 The Chief Fire Official or designate may at their discretion issue a first time warning if the person or persons setting out the fire agrees to immediately extinguish the fire.
- 6.5 The fire department may invoice the person or persons responsible for setting the fire to recover the costs associated with extinguishment of an open air fire, which has been lit in contravention of this By-law, at the Provincial Ministry of Natural Resources and Forestry rates. These costs are above any set fines.

7.0 ADMINISTRATION

- 7.1 This By-law applies to the entire geographic area of the municipality.
- 7.3 By-law Number 2001-16 and By-law Number 2020-31 is hereby repealed.

Read a first and second time this 13th day of September, 2021.

Read a third time and finally passed in open council on this 13th day of September, 2021.

(signature on original)

Mayor

(signature on original)

Clerk

**The Corporation of the Township of Nairn and Hyman
Schedule "A"**

**Set Fines
Part 1 Provincial Offences Act**

By-law 2021-27, Being a by-law to provide for the regulation of open air burning and precautions to be taken by persons setting fires

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fines
1	Fail to have a responsible adult person in attendance	Section 2.2	\$125.00
2	Fail to supervise/control fire	Section 2.3	\$125.00
3	Burn prohibited material(s)	Section 2.4	\$125.00
4	Burn during windy conditions	Section 2.5	\$125.00
5	Burn during extreme fire hazard	Section 2.6	\$125.00
6	Burn on highway/municipal property	Section 2.7.2	\$125.00
7	Failure to have a responsible person present to supervise fire until completely extinguished	Section 3.1.2	\$125.00
8	Burn pile in excess of two (2) metres in diameter	Section 3.1.3	\$125.00
9	Burn pile in excess of two (2) metres in height	Section 3.1.3	\$125.00
10	Burn after 8:00 a.m. and before 7:00 p.m.	Section 3.1.4	\$125.00
11	Burn during high or extreme fire hazard	Section 3.1.8	\$125.00
12	Incinerator not enclosed	Section 3.2.2	\$125.00
13	Incinerator constructed of combustible material	Section 3.2.2	\$125.00
14	Incinerator closer than six (6) metres to combustibles	Section 3.2.4	\$125.00
15	Incinerator screen having a mesh size of more than five (5) mm	Section 3.2.6	\$125.00
16	Failure to have a responsible person present to supervise incinerator fire until completely extinguished	Section 3.2.7	\$125.00
17	Burn incinerator after 8:00 a.m. and before 7:00 p.m.	Section 3.2.8	\$125.00
18	Incinerator fire during extreme fire hazard	Section 3.2.10	\$125.00
19	Smoke causes adverse impact	Section 3.2.11	\$125.00
20	Campfire in excess of one (1) metre in diameter	Section 4.1.1	\$125.00
21	Campfire in excess of one (1) metre in height	Section 4.1.1	\$125.00
22	Campfire not surrounded by at least one (1) metre of non-combustible material	Section 4.1.4	\$125.00
23	Campfire not at least six (6) metres from any combustible material	Section 4.1.5	\$125.00
24	Campfire not at least six (6) metres from any combustible structures	Section 4.1.5	\$125.00
25	Campfire during fire ban	Section 4.1.6	\$125.00
26	Causing adverse impact on other people or property	Section 4.1.7	\$125.00
27	Campfire screen having a mesh size of more than five (5) mm	Section 4.1.8	\$125.00
28	Campfire outdoors after 8:00 a.m. and before 7:00 p.m.	Section 4.1.9	\$125.00

NOTE: The penalty provision for the offences indicated above is Section 6 of By-law 2021-27, a certified copy of which have been filed.