

CITY OF NIAGARA FALLS

**A consolidated by-law being By-law No. 72-211 as amended
by:**

By-law 2016-37

A by-law respecting fires.

WHEREAS paragraphs 29 and 44 of subsection 1 of section 354 of the Municipal Act, R.S.O. 1970 provide that by-laws may be passed by the councils of local municipalities for prescribing for the whole or part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting out fires and for making such other regulations for preventing fires and the spread of fires as the council may deem necessary.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. In this by-law,
 - a. “agricultural district”, “industrial district”, “rural district” and “rural agricultural district” mean, respectively, a district or area of the City of Niagara Falls declared, designated or established as an agricultural district or zone, an industrial district or zone, a rural district or zone or a rural agricultural district or zone by any by-law now or hereafter passed and in force in the City of Niagara Falls as constituted by The Regional Municipality of Niagara Act pursuant to section 35 of The Planning Act R.S.O. 1970 or a predecessor of that section;
 - b. “Fire Chief”, “Deputy Chief” and “Platoon Chief” and “Fire Prevention Officer” mean, respectively, a person holding the office or rank of Fire Chief, a Deputy Chief, a Platoon Chief or a Fire Prevention Officer of the City of Niagara Falls Fire Department;
 - c. “fire” includes bonfire, campfire and any other fire in a yard, field or any other open place but does not include:
 1. A charcoal or gas fire in a barbecue, hibachi or similar metal or masonry container while being used for the cooking of food for human consumption provided,
 - i. Such fire is not on a balcony of a building or in any other unsafe place, and
 - ii. Such fire is attended by a person competent to supervise it;
 2. An appliance being used for heating pitch or asphalt;
 3. An appliance being used for construction or maintenance and which requires an open flame,
 4. A campfire in a camping establishment licensed by the City of Niagara Falls provided that such campfire is in an area of the camping establishment approved by a Fire Prevention Officer and is attended by a person competent to supervise it;
 5. A campfire, elsewhere within the City of Niagara Falls provided that such campfire is in an area approved by the Fire Prevention Officer and is attended by a person competent to supervise it;
 6. A fire set with the approval of City Council in a location approved by the Fire Chief, Deputy Fire Chief, Platoon Chief or a Fire Prevention Officer and with Fire Department personnel present;
 7. A fire set by the Fire Department in training areas approved by the Fire Chief, a Deputy Fire Chief, a Platoon Chief, or a Fire Prevention Officer for the purpose of training or testing equipment;
 8. A fire set by a fire equipment manufacturer or his agent for the purpose of demonstrating fire-fighting equipment in an area approved by

the Fire Chief, a Deputy Fire Chief, a Platoon Chief, or a Fire Prevention Officer and with Fire Department personnel present;

9. A fire for thawing or heating building materials provided such fire is set in a location approved by the Fire Chief, a Deputy Fire Chief, a Platoon Chief, or a Fire Prevention Officer;

10. The burning of brush or leaves by City employees in locations approved by the Fire Chief, a Deputy Fire Chief, a Platoon Chief, or a Fire Prevention Officer provided such burning is under the supervision of a City foreman and takes place between the hours of 8 o'clock in the forenoon and 6 o'clock in the afternoon of the same day; or

11. A fire in a masonry fireplace in a Municipal or Provincial park.

2. No person shall, anywhere in the City of Niagara Falls, set or maintain a fire in the open air or permit a fire in the open air to burn

a. At any time between the hours of 6 o'clock in the afternoon of any day and 8 o'clock in the forenoon of the next following day;

b. At a location where there is a danger of such fire spreading to grass or other vegetation;

c. During a strong wind;

d. On any road allowance or other municipal property;

e. On or adjacent to any property where a building or structure is under construction;

f. On or adjacent to any property where it is known that explosives or any other flammable material is stored; or

g. On or adjacent to any property where there is a large gathering of people.

3. No person shall make or permit any fire of any size under conditions or circumstances likely to cause loss of life or damage to a building or other property.

4. (1) No person shall burn debris or other material:

a. In any building or structure which is being demolished;

b. On the lot or site of any building or structure which is being demolished.

4. (2) No person shall set fire to:

a. A building or structure for the purpose of demolishing the whole or any part thereof;

b. A demolished building or any part thereof.

5. Every person setting a fire in the open air anywhere in the City of Niagara Falls shall,
 - a. Ensure that a person competent to supervise such fire and to extinguish it promptly in the event of danger of the spread of such fire is in constant immediate attendance at the specific place where the fire is burning;
 - b. Completely extinguish such fire before leaving the specific place where the fire is burning; and
 - c. Except for the fires described in section 6 of this by-law,
 - i. Set and confine the fire in a metal or masonry container with a metal screen on top having a mesh or not larger than one-half inch; and
 - ii. Set and keep the fire not less than 50 feet from any building, wooden fence or other combustible material or liquid.
6. (1) Every person setting a fire in the open air in any agricultural district, industrial district, rural district or rural agricultural district shall comply with the following additional regulations,
 - a. Subject to clause b), the fire shall be kept at least 100 feet from any building;
 - b. If branches and pruning's in large quantities are to be burned:
 - i. The fire shall be kept at least 200 feet from any building;
 - ii. The Niagara Falls Fire Department shall be notified of the intention to set the fire, and
 - iii. The piles of branches and pruning's to be burned shall be not more than 10 feet in diameter nor more than 10 feet in height.
6. (2) For the purpose of this section that part of the former Township of Humberstone now in the City of Niagara Falls shall be deemed to be in a rural agricultural district.
7. The Fire Chief and every Deputy Chief, Platoon Chief, and Fire Prevention Officer is hereby authorized to order any person to put out any fire when in the opinion of such Fire Chief, Deputy Chief, Platoon Chief, or Fire Prevention Officer there is any danger of such fire spreading or otherwise endangering life or property.
8. Every person setting a fire in the open air shall comply with all lawful directions of the Fire Chief and every Deputy Chief, Platoon Chief and Fire Prevention Officer.
9. Wherever in this by-law any reference is made to time, such time shall, for any period of the year during which Daylight Saving Time is proclaimed to be in effect in Niagara Falls, be construed according to Daylight Saving Time and not Standard Time.
10. Every person who contravenes this by-law is guilty of an offence and is subject to a penalty not to exceed \$2,000.00 exclusive of costs, pursuant to the Provincial Offences Act.

11. By-law No. 7101, 1966, as amended, of the former City of Niagara Falls and all by-laws of the former Village of Chippawa and the former Townships of Willoughby, Crowland and Humberstone which are inconsistent with the provisions of this by-law are hereby repealed.
12. Nothing in this by-law shall be deemed to authorize any fire, burning or other act which is in contravention of The Environmental Protection Act, 1971 or any regulation made thereunder and in the event of any conflict between the provisions of this by-law and the said Act or regulations, the provisions of the said Act and regulations shall govern.
13. (1) For the purposes of this section fire means any outdoor burning, irrespective of the source of fuel or the use of an appliance.
13. (2) The Council of the Corporation of the City of Niagara Falls declares emissions from fires that unreasonably interfere with the enjoyment of property to be a public nuisance pursuant to Section 128 of the Municipal Act, 2001, S.O. 2001, c. 25.
13. (3) Notwithstanding any provision of this by-law or any permission granted by the Fire Chief or his designate, any fire which is causing a public nuisance is not permitted.
13. (4) The Fire Chief or his designate may order a fire that is causing a public nuisance to be extinguished immediately, or within such time as the Fire Chief or his designate specifies in the order.
13. (5) In addition to the power sets out in section 13(4) above, The Fire Chief or his designate may order the persons in charge of a fire causing a public nuisance to take steps to eliminate the public nuisance being caused by the fire.
13. (6) In the event that the persons in charge of the fire decline or refuse to obey an order made or issued pursuant to sections 13(4) or (5) above, the Fire Chief or his designate may extinguish the fire.
13. (7) In any case in which an order made or issued pursuant to sections 13(4) or (5) above is not obeyed, or the Fire Department is required to attend at the same property to attend to a public nuisance caused by a fire more than one time in any 12 month period, the cost of the attendance by the Fire Department at the property where the fire causing the public nuisance is located, may be added to the assessment roll entry for that property and collected in the same manner as municipal taxes.
13. (8) A person is guilty of an offence if that person fails to obey an order issued pursuant to sections 13(4) or (5) above.

The original by-law was passed on the 20th day of November, 1972.

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 J. L. Collinson, Clerk

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 F. Miller, Mayor