

**THE CORPORATION OF THE TOWNSHIP OF  
KILLALOE, HAGARTY AND RICHARDS**

**BY-LAW # 40-2018**

WHEREAS Section 9 of the Municipal Act, 2001, Chapter 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 8(1) of the Municipal Act, 2001, Chapter 25, as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 11 of the Municipal Act, 2001, Chapter 25, as amended, establishes the Spheres of Jurisdiction under which lower tier municipalities may pass by-laws;

AND WHEREAS Section 391(1)(a) of the Municipal Act, 2001, Chapter 25, as amended, authorizes a municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 7.1(1) of the Fire Protection and Prevention Act, , S.O. 1997, c. 4, as amended, provides a municipality with the authority to allow and regulate open air fires;

NOW THEREFORE the Council for the Corporation of the Township of Killaloe, Hagarty and Richards hereby enacts as follows:

**1.0 DEFINITIONS:**

- (a) **"Approved Pit"** means an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15 cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the limit of the fuel used for a campfire.
- (b) **"Authorized Agent"** means any person authorized by the Council to carry out authorized duties, and may include a By-Law Enforcement Officer.
- (c) **"Campfire"** means an Open-Air Fire, having a maximum fuel volume of .6 metres x .6 metres x .6 metres (2 feet x 2 feet x 2 feet), that is set or maintained in an outdoor firepit or outdoor fireplace and is used solely for the purposes of cooking food, providing warmth or recreational enjoyment.
- (d) **"Chinese Lantern" or "Sky Lantern" or "Flying Lantern"** means a small hot air balloon made of paper or any other material with an on opening at the bottom where a small fire is suspended such that the lantern will rise and float in the air while ignited.
- (e) **"Combustible"** means any material, trees or vegetation, combination of materials, or arrangement of materials in which any portion thereof are highly susceptible to catch fire when exposed to heat, flame or other burning materials.
- (f) **"Council"** means the elected Council for the Corporation of the Township of Killaloe, Hagarty and Richards.
- (g) **"Fire Chief"** means the Chief Fire Official of the Township of Killaloe, Hagarty and Richards, or his/her designate.
- (h) **"Fireworks"** means a device containing combustibles or explosives that, when ignited, produce a brilliant display of light and/or a loud noise.
- (i) **"Household Waste"** means any solid waste, composed of garbage or rubbish, which normally originates in a private home or apartment.
- (j) **"Incinerator"** means any enclosed device, regardless of size or construction, covered with a screen having a mesh size of not more than 5 mm in size, in which a fire can be set for the burning of materials, but does not mean an outdoor furnace.
- (k) **"Municipal Fire Ban"** means a state and related period of time declared by the Fire Chief or his/her designate, in consultation with Council, during which no one may set or maintain any open air fire, including camp fires, fireworks, fires in outdoor fireplaces, and includes the use of charcoal briquettes and all wood

burning devices, whether portable or stationary, and may include other outdoor open air burning devices not defined in this by-law. A Municipal Fire Ban applies to all Open-Air Fires within the boundaries of the Township, with the exception of those exemptions contained in Schedule "A" to this by-law.

- (l) **"Open Air Fire"** means a fire set in the open air for the purpose of burning brush or other approved combustible material, and includes fires in incinerators, but does not include a cooking fire, campfire or barbeque.
- (m) **"Outdoor Fireplace"** means an outdoor fireplace, whether constructed of masonry, pottery, metal, or other material.
- (n) **"Outdoor Furnace"** means, but is not limited to, any enclosed device, appliance, equipment, apparatus or structure that is designed, intended and/or used to provide heat and/or hot water to any associated structure, that operates by burning wood or any other fuel including but not limited to, paper pellets and agricultural products, is not located within the structure to be heated, and includes, but is not limited to, devices referred to as wood furnaces and outdoor boilers.
- (o) **"Person"** includes an association, firm partnership, or corporation.
- (p) **"Prohibited Material"** means any material such as but not limited to, household waste, petroleum products, plastics, rubber, painted lumber, tires, furniture, carpeting, Styrofoam, or any other item that could cause noxious or toxic fumes or smoke.
- (q) **"Township"** means the Corporation of the Township of Killaloe, Hagarty and Richards.

## 2.0 GENERAL REGULATIONS:

- 2.1 All persons setting an open-air fire or an incinerator fire in the Township of Killaloe, Hagarty and Richards shall comply with the following regulations:
  - (a) The material to be burned shall be limited to grass clean wood, clean wood wastes, and wood by-products, that have not been chemically treated, painted or stained.
  - (b) Brush piles for burning must be no larger than two meters in diameter, two metres high and placed not less than ten metres apart. There may be no more than three brush piles burning at any one time.
  - (c) There shall be no burning within five metres of an adjacent property or within five metres of a combustible structure.
  - (d) In the case of burning grass, the area to be burned shall be less than one acre and the length of the flaming edge shall be less than thirty metres.
  - (e) The person conducting the burning is responsible for supervising the burning, and must ensure that the means of fire extinguishment is available at the site at all times during the fire, for example shovels, rakes, water and sufficient manpower to control the fire.
  - (f) During the fire season from April 1 to October 31, inclusive, the person responsible for conducting the burning must ensure that the fire is ignited no earlier than two hours before sunset, or later, and is extinguished no later than two hours after sunrise, or earlier.
  - (g) No person shall ignite a Sky Lantern, Chinese Lantern and/or Flying Lantern within the Township of Killaloe, Hagarty and Richards at any time.
- 2.2 All persons setting or maintaining an incinerator fire shall comply with the following conditions:
  - (a) They shall be enclosed devices.
  - (b) They shall be at least five meters from any forest.
  - (c) They shall be at least five meters from any flammable material.
  - (d) They shall be at least five meters from a combustible structure.
  - (e) The top shall be covered by mesh not more than 5 mm in size.

- (f) There shall be a responsible person over the age of 16 years monitoring the fire until it is out.
- 2.3 No person shall at any time burn or allow to be burned any household waste or prohibited materials.
- 2.4 All persons setting an open-air fire or incinerator fire in the Township of Killaloe, Hagarty and Richards shall:
  - (a) Be responsible for any damage to property or injury to persons, occasioned by the said fire.
  - (b) Be held liable for costs incurred by the fire department, including personnel, equipment and apparatus necessary and called in to extinguish the said fire or exposures (fire started from the initial fire).
  - (c) When ordered by the Fire Chief or his/her designate, extinguish their fire.
- 2.5 No person shall set or maintain an open-air fire or incinerator fire when the wind is in such a direction or intensity as to cause any of the following:
  - (a) A decrease in visibility on any highway or roadway.
  - (b) A rapid spread of fire through a grass or brush area.
  - (c) A fire hazard, or other adverse effects to properties and individuals affected by the products of combustion.
- 2.6 A farmer who intends to set or maintain a fire in the open air on a specified day for disposal of vegetable matter or vegetation on farm land which is normal or incidental for farming purposes shall:
  - (a) Contact the Fire Chief or his/her designate for approval prior to igniting the fire.

### **3.0 FIRE BANS**

#### 3.1

- (a) A Municipal Fire Ban may be declared by the Fire Chief or his/her designate, in consultation with Council, within the Township of Killaloe, Hagarty and Richards, or parts of the Township as deemed necessary.
  - (b) A campground in the Township of Killaloe, Hagarty and Richards may attain designation and exemption from a Municipal Fire Ban by being inspected by the Fire Chief or his/her designate, and meeting and maintaining the criteria outlined in the Designated Campground Exemption Criteria in Schedule "A" hereto attached and forming part of this by-law.
  - (c) No open-air fires will be permitted within the Township while a Municipal Fire Ban is in effect, except within a Designated Campground that has met the criteria in Schedule "A" this by-law, or a Provincial Park, over which the municipality has no authority.
- 3.2 No person shall at any time while a Municipal Fire Ban is in effect:
- (a) Set or maintain any open-air fire, including camp fires, fireworks, fires in outdoor fireplaces, including the use of charcoal briquettes and all wood burning devices, whether portable or stationary, and may include other outdoor open air burning devices not defined in this by-law. A Municipal Fire Ban applies to all Open-Air Fires within the boundaries of the Township, with the exception of those exemptions contained in Schedule "A" to this by-law.
  - (b) Deploy, set off or allow for the deployment or setting off of fireworks.
  - (c) Set, maintain or allow to be set or maintained any open-air fire, including but not limited to, campfires, cooking fires, outdoor fireplaces or other outdoor appliances that burn charcoal, wood or wood by-products.
  - (d) Set, maintain or allow a fire in any incinerator.
- 3.3 Outdoor furnaces, where allowed, are exempt from section 3.0 of this by-law.
- 3.4 During a Municipal Fire Ban the use of liquid fuel or gas propane stoves and barbeques is permitted for the preparation of food and for heat, as long as it is enclosed, i.e. covered with a lid, and there is a method of regulating the heat.

- 4.0 Notwithstanding any other provision of this by-law, the Fire Chief or his/her designate, may impose restrictions on outdoor fires if in his/her opinion:
- (a) A lack of precipitation increases the risk of the spread of fire.
  - (b) Winds increase the risk of the spread of fire.
  - (c) Any other condition that in the opinion of the Fire Chief or his/her designate, will increase the risk of the spread of fire.
- 5.0 Every person who contravenes any provision of this by-law is guilty of an offence and is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33., and for all costs incurred by the Township of Killaloe, Hagarty and Richards for extinguishing the fire.
- 6.0 This by-law shall be administered and enforced by the Fire Chief or his/her designate and/or other Authorized Agent as Council of the Township may designate.
- 7.0 This by-law may be cited as the "Township of Killaloe, Hagarty and Richards Open-Air Burning By-Law".
- 8.0 This By-Law repeals By-Law #51-2014, By-Law #39-2016, By-Law #49-2016 and By-Law #36-2012.
- 9.0 This by-law shall come into force and take effect upon final passing thereof.

Read a first and second time this 18<sup>th</sup> day of September, 2018.

Read a third time and finally passed this 18<sup>th</sup> day of September, 2018.

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Mayor

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CAO/Clerk-Treasurer

## Schedule "A" to By-Law #40-2018

### DESIGNATED CAMPGROUND EXEMPTION FROM MUNICIPAL FIRE BANS

#### 1.0 DEFINITIONS:

**"Designated Campground"** means a campground that is inspected annually and satisfies the criteria in Appendix "B" attached hereto. This means that the Fire Chief, or his/her designate has completed an inspection and has determined that the campground is in compliance with criteria under the *Forest Fire Prevention Act* and meets the conditions in the Designated Campground Exemption Criteria attached hereto as Appendix "B".

**"Municipal Fire Ban"** means a state and related period of time declared by the Fire Chief or his/her designate, in consultation with Council, during which no one may set or maintain any open air fire, including camp fires, fireworks, fires in outdoor fireplaces, and includes the use of charcoal briquettes and all wood burning devices, whether portable or stationary, and may include other outdoor open air burning devices not defined in this by-law. A Municipal Fire Ban applies to all Open-Air Fires within the boundaries of the Township, with the exception of those exemptions contained herein.

#### 2.0 GENERAL REGULATIONS:

- (a). A designated Campground may attain designation and exemption from Municipal Fire Bans by being inspected annually by the Fire Chief or his/her designate, and meeting and maintaining the criteria outlined in the Designated Campground Exemption Criteria attached hereto as Appendix "B".
- (b). During a Municipal Fire Ban, no outdoor fires will be permitted within the Municipality except within a Campground that has met the Designated Campground Exemption Criteria – Appendix "B", or a Provincial Park, over which the Municipality has no authority.

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Mayor

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CAO/Clerk-Treasurer

## DESIGNATED CAMPGROUND EXEMPTION CRITERIA

### Appendix 'B' to By-Law #40-2018

For a designated campground to be exempt from a municipal fire ban the following conditions **MUST** apply:

1. The campground does **NOT** allow the burning of campfires between 10:00 a.m. and 7:00 p.m.;
2. The campground clearly posts the hours that campfires will be allowed;
3. The campground has printed information on safe campfires and provides it to all of its guests;
4. The campground has on site at all times when burning is allowed, staff who are instructed in the location and use of the equipment mentioned above;
5. The campground has reliable two-way telecommunications equipment to allow it to obtain assistance if a fire escapes control;
6. The fire is contained in an above ground fire grate or fireplace that is designed to safely burn wood and that **CANNOT** be moved to an unsafe location; or have a pit in the ground that has fireproof walls and is designed to safely burn wood;
7. The fire grate or fireplace **CANNOT** be moved to an unsafe area;
8. The fire installation is at least 30 metres from any forest or woodland and the area within 3 metres of the location of the fire is completely free of any combustible material;
9. The space immediately above the location of the fire is at least 3 metres from any overhanging vegetation;
10. During a declared fire ban, should a fire get out of control and demand a response from the Killaloe, Hagarty and Richards Fire Department, or any assistance requested by them either through Mutual Aid or through a request to the Ministry of Natural Resources and Forestry (MNRF), the campground owner shall pay for all costs associated with the extinguishment of said fire. Such costs shall be calculated in accordance with the current fee structure established by the Ministry of Natural Resources and Forestry (MNRF). Times shall be calculated from the receipt of the call through to the time that responding personnel and equipment are back in service.

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Mayor

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CAO/Clerk-Treasurer

**Corporation of the Township of Killaloe, Hagarty and Richards**  
**Part 1 Provincial Offences Act**  
**By-Law #40-2018 - Open Air Burning By-Law**

|    | <b>COLUMN 1<br/><i>Short Form Wording</i></b>  | <b>COLUMN 2<br/><i>Offence<br/>Creating<br/>Provision or<br/>Defining<br/>Offence</i></b> | <b>COLUMN 3 – SET<br/>FINE</b> |
|----|--|---|--------------------------------|
| 1  | Burning of materials not permitted   | Section 2.1(a)  | \$250.00                       |
| 2  | Burning of over-sized brush piles, burning of too many brush piles, or piles placed too close together | Section 2.1(b)  | \$250.00                       |
| 3  | Burning within 5 metres of adjacent property or combustible structure                                  | Section 2.1(c)  | \$250.00                       |
| 4  | Burning too large of an area of grass or where the leading edge exceeds 30 metres                      | Section 2.1(d)  | \$250.00                       |
| 5  | Burning without adequate extinguishment devices and/or failure to supervise burning                    | Section 2.1(e)  | \$250.00                       |
| 6  | Burning outside of the prescribed fire season permitted hours  | Section 2.1(f)  | \$250.00                       |
| 7  | Ignite flying lantern, sky lantern or Chinese lantern  | Section 2.1(g)  | \$250.00                       |
| 8  | Improper operation of an incinerator – Incinerator not enclosed  | Section 2.2(a)  | \$250.00                       |
| 09 | Improper operation of an incinerator – Incinerator within 5 metres of forest                           | Section 2.2(b)  | \$250.00                       |
| 10 | Improper operation of an incinerator – incinerator within 5 metres of flammable material               | Section 2.2(c)  | \$250.00                       |
| 11 | Improper operation of an incinerator – incinerator within 5 metres of combustible structure            | Section 2.2(d)  | \$250.00                       |
| 12 | Improper operation of an incinerator – top is not covered with mesh size 5mm or less                   | Section 2.2(e)  | \$250.00                       |
| 13 | Failure to have a responsible person over the age of 16 years monitoring the fire until it is out      | Section 2.2(f)  | \$250.00                       |

|    |   |                |          |
|----|---|----------------|----------|
| 14 | Failure to extinguish fire or comply when ordered   | Section 2.4(c) | \$250.00 |
| 15 | Open air burning so as to cause a decrease in visibility on any highway or roadway  | Section 2.5(a) | \$250.00 |
| 16 | Open air burning so as to cause a rapid spread of fire through a grass or brush area  | Section 2.5(b) | \$250.00 |
| 17 | Open air burning so as to cause a fire hazard or other adverse effects to properties and individuals affected by the products of combustion | Section 2.5(c) | \$250.00 |
| 18 | Burning on a farm for disposal of vegetable matter without the approval of the Fire Chief or his/her designate                              | Section 2.6(a) | \$250.00 |
| 19 | Open air burning during a Municipal Fire ban  | Section 3.2(a) | \$250.00 |
| 20 | Deploy, set off, or allow for the deployment or setting off of Fire Works while a Municipal Fire Ban is in effect                           | Section 3.2(b) | \$250.00 |
| 21 | Set, maintain or allow to be set or maintained, any open-air fire while a Municipal Fire Ban is in effect.                                  | Section 3.2(c) | \$250.00 |
| 22 | Set, maintain or allow to be set or maintained, a fire in any incinerator while a Municipal Fire Ban is in effect.                          | Section 3.2(d) | \$250.00 |

**Note:** The penalty provision for the offences indicated above is Section 5.0 of By-Law #40-2018, a certified copy of which has been filed.