

Upper Hutt City Council Urban Fire Prevention Bylaw 2005

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Explanatory Note

This Bylaw is called Upper Hutt City Council Urban Fire Prevention Bylaw 2005 and is the reviewed version of the Prevention of Vegetation Fires Bylaw 2005.

This Bylaw was made under sections 145 and 146 of the Local Government Act 2002.

The purpose of this Bylaw is to regulate and control the lighting of fires in the Open Air in Urban Areas to reduce the potential danger of forest and vegetation fires and prevent smoke and fire nuisance for urban residents.

1. Application of Bylaw

- 1.1. This Bylaw applies to the Urban Area only but any permits issued under this Bylaw are subject to sections 20 and 22 of the Forest and Rural Fires Act 1977.

2. Commencement

- 2.1. This Bylaw came into force on 1 June 2005 and was reviewed and was amended in 2017.
- 2.2. Clauses 4.1(a) and (d) come into force on 1 July 2018.
- 2.3. All other amendments come into force on 1 June 2017.

3. Interpretation

- 3.1. In this Bylaw:

“**Barbecue**” means any gas or solid fuel burning equipment or device that is designed to be used primarily for cooking food in the open air, although it may have a lid.

“**Brazier**” means a heating appliance designed to be used outdoors and is fired by untreated timber, wood, coal or charcoal.

“**Bylaw**” means this Urban Fire Prevention Bylaw.

“**Combustible Material**” includes plastic, coated or covered metal, rubber, waste oil, sludge, pitch, paint, motor vehicle parts, medical waste, or treated timbers.

“**Contaminants**” means any solid, liquid or gaseous material that is toxic, a pollutant or likely to cause damage to any person or property.

“**Council**” means the Upper Hutt City Council.

“**District**” means the district within the jurisdiction and under the control of the Council.

“**Incinerator**” means a device, located in any place other than a building, used for the purpose of burning and includes:

- a. An oil drum, the top of which is covered with a heavy gauge steel wire mesh, where holes in the mesh are up to 3 centimetres square; or
- b. An oil drum fitted with a flue, cowl, and lid; or
- c. A pumice copper fitted with a flue, cowl, and lid; or
- d. A masonry or concrete enclosed vessel that is commercially produced, placed on a concrete slab base, and fitted with a fire box and heavy gauge steel wire mesh cover, where the cover is at least 1.5 square metres; or
- e. A masonry or concrete enclosed vessel that is commercially produced, placed on a concrete slab base, and fitted with a fire box, flue, cowl, and lid.

“**Nuisance**” has the meaning given to it by the Health Act 1956.

“**Open Air**”, in relation to a fire, means in any place other than in a building.

“Outdoor Cooking Oven” means a permanent and immovable enclosed oven that is designed to be used primarily for baking food outside, and includes a pizza oven.

“Premises” means any land or building, or part thereof, including a dwellinghouse, yard or part of the same enclosed space separately occupied and all lands, buildings and places adjoining each other and occupied together shall be deemed to be the same premises.

“Prohibited Fire Season” means a period commencing on the start date for a Prohibited Fire Season declared under clause 6.1 and ending on the finish date declared under clause 6.2 for that Prohibited Fire Season, during which period the lighting of fires in the open air is prohibited under clause 4.1.

“Properly Constructed Barbecue” means a Barbecue that is constructed such that the spread of live cinders, embers or ashes to vegetation or premises is prevented.

“Rating Unit” means a Rating Unit as defined by the Local Government Rating Act 2002.

“Traditional Cooking Process” includes a hangi or umu.

“Urban Area” means all Rating Units that are zoned in the Upper Hutt City Council District Plan:

- a. as Residential, Business, Special Activities or Open Space; or
- b. Land where the majority of the Rating Unit is zoned Residential, Business or Special Activities.

“Vegetation” has the same meaning as in section 2 of the Forest and Rural Fires Act 1977.

4. Prohibited Activities

4.1. No person may:

- a. burn vegetation on or after 1 July 2018; or
- b. burn any combustible material or other material that results in the discharge of contaminants into the open air; or
- c. burn any material so as to cause a nuisance; or
- d. use an incinerator on or after 1 July 2018.

4.2. Clause 4.1(a) and (b) do not apply if the person concerned is acting pursuant to and in accordance with the conditions of a permit granted under clause 9.2.

4.3. Clause 4.1(a), (b) and (d) do not apply if the person concerned is acting pursuant to, and in accordance with, the conditions on a resource consent authorising any discharge of contaminants into air issued under section 15 of the Resource Management Act 1991 by the Greater Wellington Regional Council.

- 4.4. No person may place any live cinders, embers, or ashes in or upon any premises, except:
- a. in a container made of steel or other similarly fire resistant material to prevent the transmission of heat to any combustible material; or
 - b. in a pit or upon any fire-resistant substance in such a manner so as to prevent the spreading of fire by the action of wind or otherwise; or
 - c. as part of a traditional cooking process.

5. Limits on Fires in the absence of a Prohibited Fire Season

- 5.1. When a Prohibited Fire Season is not in place, no person may light or otherwise create a fire, or further fuel a fire, that is in the open air, except if the fire is in the opinion of the Council adequately supervised at all times and is:
- a. in a properly constructed barbecue; or
 - b. as part of a traditional cooking process; or
 - c. in an outdoor cooking oven; or
 - d. in a brazier; or
 - e. pursuant to and in accordance with the conditions of a permit granted under clause 9.2.

6. Declaring a Prohibited Fire Season

- 6.1. The Council may declare the start date of a prohibited fire season at any time.
- 6.2. The Council may declare the finish date of a prohibited fire season at any time.

7. Public Notice of Prohibited Fire Season

- 7.1. The Council must give public notice of both the start and end of any prohibited fire season that it declares under clause 6.1. Notice of the start date must be given at least 2 days before the start date.
- 7.2. Public notice under clause 7.1 is given by:
- a. placing a notice in a daily newspaper that circulates in the urban area; or
 - b. placing advertisements on radio or television that broadcasts in the urban area; or
 - c. making information available on the Council's website, www.upperhuttcity.com
 - d. other means deemed appropriate by the Council.

8. Limits on Fires during a Prohibited Fire Season

- 8.1. During a prohibited fire season, no person may light or otherwise create a fire, or further fuel a fire, that is in the open air, except if the fire is in the opinion of the Council supervised adequately to maintain control at all times and is:
 - a. in a barbecue that is properly constructed; or
 - b. in an outdoor cooking oven or is part of a traditional cooking process undertaken pursuant to and in accordance with the conditions of a permit granted under clause 9.2.

9. Permits

- 9.1. Any person may apply to the Council for a permit, using a Council approved form.
- 9.2. The Council may grant a permit on such conditions as the Council considers appropriate.

10. Penalty

- 10.1. Failing to comply with the provisions of clauses 4 – 8 of this Bylaw, the conditions of any permit or any directions given under this Bylaw, is a breach of this Bylaw and is an offence.
- 10.2. Any person who commits an offence under this Bylaw will be liable for the penalties prescribed by the Local Government Act 2002.