

## Part 3

# Open Air Fires in the Urban Fire District

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### **301 Scope**

The purpose of this Part of this bylaw is to:

- (a) allow the Council to exercise control over fires in the open air in an Urban Fire District to provide for the protection of people and property from the risk and spread of fires and to prevent smoke from fires in the open causing a nuisance. This protection is to be obtained by reducing vegetation fire hazards and regulating open air fires; and
- (b) meet the requirements under the Local Government Act 2002 and other legislation for territorial authorities to have a bylaw to prevent the spread of fires involving vegetation. This by-law gives effect to and complements provisions of:
  - (i) The Local Government Act 2002;
  - (ii) The Forest and Rural Fires Act 1977;
  - (iii) The Forest and Rural Fires Regulations 2005;
  - (iv) The Fire Service Act 1975; and
  - (v) The Otago Regional Council's Regional Plan: Air for Otago.

Nothing in this bylaw derogates from any duty, power or responsibility arising from this or any other enactment, bylaw or rule.

### **302 Definitions**

**Authorised Officer** See Part One of this Bylaw

**Barbeque** Any fixed or portable (whether temporary or permanent) solid fuel equipment, or fixed or portable gas equipment, for cooking food and intended for use in the open air

<b>Fire Officer</b>	Any person authorised by the Council to act as a fire officer or who is a member of the New Zealand Fire Service or of a fire brigade, in accordance with the Fire Service Act 1975. This includes, where appropriate, a rural fire officer, as defined in the Forest and Rural Fires Act 1977.
<b>Incinerator</b>	A container used for burning of waste material, which is made of non-combustible materials and which has a grate and a lid or spark arrester
<b>Open Air</b>	Means, in relation to fires, outside of a building whether on or above ground level
<b>Open Air Fire</b>	An open air fire includes, but is not limited to, fires within an incinerator, solid fuel barbeques, traditional cooking fires, outdoor fireplaces (whether or not constructed to Council-approved standards), braziers, camp fires, controlled burns, bonfires and rubbish fires. An open air fire does not include gas-powered barbeques.
<b>Open Fire Season</b>	A period of time, whether of fixed or indefinite duration, during which the lighting of fires in the open air is neither prohibited nor restricted under this part of the bylaw. No permit is required for an open air fire during an open fire season
<b>Permit or Licence</b>	In relation to the lighting of fires in the open air, means a licence issued by the Council as a fire control measure, under which a person may light such fires without committing an offence against this bylaw
<b>Prohibited Fire Season</b>	A period of time, whether of fixed or indefinite duration, specified pursuant to this part of this bylaw,

during which period the lighting of fires in the open air is prohibited. This is also known as a total fire ban.

**Restricted Fire Season** A period of time, whether of fixed or indefinite duration, specified pursuant to this bylaw, during which period permits are required under this bylaw for the lighting of fires in the open air.

**Total Fire Ban** See Prohibited Fire Season

**Traditional Cooking Fire** Any hangi or similar fire in the open air used for the preparation of food using traditional cooking methods

**Vegetation** Includes, but is not limited to, all plants and the produce thereof, live or dead, standing, fallen, windblown, cut, broken, pulverised, sawn, or harvested, natural or distributed, in use or as waste, rubbish, refuse or debris, stump, stubble or otherwise; and fossil fuel exposed at or lying within 20 metres of the surface of any land; and peat in any form. This does not include wood forming part of a structure or otherwise in processed form

### **303 Fire Districts**

Fire districts within the Central Otago District are gazetted under the Fire Service Act 1975 and the Forest and Rural Fires Act 1977. Maps showing the current boundaries of the fire districts may be viewed at the main office of the Central Otago District Council and include:

- (a) Urban Fire Districts - Any area of the Central Otago District for which the New Zealand Fire Service is the fire authority under the Fire Service Act 1975. These areas are served by volunteer fire brigades, as defined in the Fire Service Act 1975.

- (b) Conservation Areas - Any area of the Central Otago District outside an urban fire district for which the Department of Conservation is the fire authority under the Forest and Rural Fires Act 1977.
- (c) Rural Fire Areas - All areas of the Central Otago District that are not in an urban fire district or a conservation area. The Council is the fire authority under the Forest and Rural Fires Act 1977.

### **304 Prevention of Vegetation Fires**

No person shall cause or allow to persist any condition that increases the likelihood of accidental vegetation fire or its spread, and in particular:

- (a) No person shall allow the growth of vegetation on a property that creates or makes worse an unacceptable vegetation fire hazard.
- (b) No person shall allow the placing or storage of any materials on a property in such a manner as to create or make worse an unacceptable vegetation fire hazard, and in particular shall not:
  - (i) Place live cinders, embers or ashes in any place other than in a suitably fire-resistant container and in a manner that will prevent the spreading of fire, ashes and heat by the action of the wind or otherwise; or
  - (ii) Store textile or fibrous waste or rags impregnated or used in connection with petroleum products or other flammable materials near vegetation unless such items are stored in a manner that, in the opinion of the Council, provides a safeguard against spontaneous combustion; or
  - (iii) Store goods, timber, hay, packing materials or any other things of any kind whatsoever in a manner that creates or may create or worsen a fire hazard to vegetation.
- (c) If, in the opinion of a fire officer, the vegetation or matter set out in paragraphs (a), (b)(ii) or (b)(iii) are likely to become a source of danger from fire, the Council may by notice in writing to the property owner or occupier require the eradication of the fire hazard. The rights, duties and obligations of sections 183 and 184 of the Local Government Act 2002 apply.
- (d) If an occupier or owner of a property is advised that there is an unacceptable fire hazard, due to a contravention of paragraph (a) or (b) above, s/he must remedy the situation within a reasonable time frame,

given the circumstances of the risk. If the owner or occupier fails to do so, the material causing the unacceptable fire hazard may, subject to the provisions of sections 183 and 184 of the Act, be removed by the Council or its agent and the costs may be recovered from the owner or occupier.

- (e) If an unacceptable fire hazard presents an imminent danger to life, property or roads, a fire officer may eradicate the unacceptable fire hazard. The costs may be recovered from the owner or occupier.

### **305 Prohibited and Restricted Fire Seasons**

305.1 The Principal Rural Fire Officer may at any time declare by way of public notice a prohibited fire season or a restricted fire season in a rural fire district, or any part thereof, under the provisions of the Forest and Rural Fires Act 1977. The fire officer may at any time cancel or vary the declaration.

305.2 Where a prohibited fire season or a restricted fire season is declared in a rural fire district, the prohibited or restricted fire season is deemed to extend to any urban fire district that is surrounded by a rural fire district to which the restricted or prohibited fire season applies.

305.3 A permit is required from the Council to light an open air fire during a restricted fire season.

305.4 No open air fires at all may be lit in a prohibited fire season. The only fire that may be lit in the outdoors is a gas barbeque.

305.5 Public notice of the prescription of a restricted or a prohibited fire season made under clause 305.1 or 305.2 or the cancellation or variation of such a prescription, shall be made by:

- a) Broadcast or other similar means within the District; or
- b) By a notice inserted in a daily or community newspaper circulating within the District.
- c) By any effective means

### **306 General Restrictions on Open Air Fires**

- 306.1 No open air fire, whether the subject of a permit or not, is allowed to be lit or to remain alight during a prohibited fire season which includes the locality of the fire.
- 306.2 Nothing in clause 306.1 applies to the use of gas fire barbeques. A fire officer may in certain circumstances prohibit the use of gas fire barbeques.
- 306.3 No open air fire, whether the subject of a permit or not, may be lit on any public or private land without the permission of the person or body owning or controlling the land.
- 306.4 No open air fire, whether the subject of a permit or not, may be lit on any beach or beach reserve except in a properly constructed fireplace provided by the body controlling the beach or beach reserve.
- 306.5 The Otago Regional Council Regional Plan: Air contains prohibitions on the burning of certain materials. These prohibitions must be adhered to. (refer also 301 (b))

### **307 Open Air Fires In An Urban Fire District**

The lighting of open air fires in an urban fire district is permitted, subject to the following conditions:

- (a) There is no prohibited or restricted fire season in place in the locality of the fire;
- (b) The fire complies with all rules of the Otago Regional Council Regional Plan: Air, or is permitted by an appropriate consent from the Otago Regional Council;
- (c) No fire, other than a cooking fire in a container that prevents the escape of fire or ashes, is lit or allowed to remain alight between sunset and sunrise;
- (d) No fire is lit or allowed to remain alight when prevailing or forecast conditions of wind may cause it to spread;
- (e) The fire does not by reason of its size, location, risk of spread or inadequate containment constitute a danger to any person or property;
- (f) A minimum clearance of five metres is maintained from any building, fence, tree, hedge or other combustible material;

- (g) A responsible person is in attendance to supervise the fire at all times;
- (h) A water supply sufficient to control any spread of the fire is available; and
- (l) All embers and ashes are totally extinguished after burning.

### **308 Permits**

308.1 A permit may be granted for a fire in an urban fire district that will not comply with some or all of the conditions set out in clauses 304, 306 and 307 where, in the opinion of the principal fire officer, the fire will not pose an unacceptable fire risk, and:

- (a) The fire is urgently required to prevent, reduce or overcome any hazard to life or health; or
- (b) A prohibited fire season is not in place and the fire:
  - (i) is for a celebratory bonfire during the hours of darkness on New Year's Eve, or on or near Guy Fawkes night; or
  - (ii) is for a significant community event; and
- (c) The fire complies with clause 307(b) at all times

308.2 Except in the case of clause 308.1(a), an application for the permit must have been lodged with the Council no less than 14 days prior to the date of the event.

308.3 A person who during a restricted fire season wishes to light a fire that would otherwise comply with clauses 306 and 307 must first obtain a permit from the Council. An application for a permit must have been lodged with the Council not less than five working days prior to the intended date of the fire.

308.4 Upon receiving an application under 308.3 a fire officer may issue a fire permit and may impose such conditions and restrictions in respect of the permit as the fire officer considers reasonably necessary having regard to:

- a) Any cultural requirements or practices;
- b) The location, terrain, natural vegetation, and the existence of buildings or other structures and any other fuels; and
- c) Protection of the safety, health and convenience, of persons on the premises in respect of which the permit is issued and adjoining lands and premises

**309 Revocation or Suspension of Permits**

Notwithstanding any other provisions in this bylaw, any permit issued under this part of this bylaw may be revoked or suspended by a fire officer at any time, or suspended for such periods of time and on such terms and conditions as the fire officer may consider reasonable in the circumstances. Every permit shall be deemed to be revoked if a prohibited fire season is declared.

**310 An Open Air Fire in an Urban Fire District may be Declared Unsafe**

Regardless of whether the open air fire is the subject of a permit, if in the opinion of a fire officer any fire that is about to be lit or is alight fails to meet any condition of clause 307 above or otherwise poses a danger, that fire shall cease to be a permitted activity and shall be extinguished immediately.