

BYLAW # 2018-04

A BYLAW RESPECTING OUTDOOR FIRES

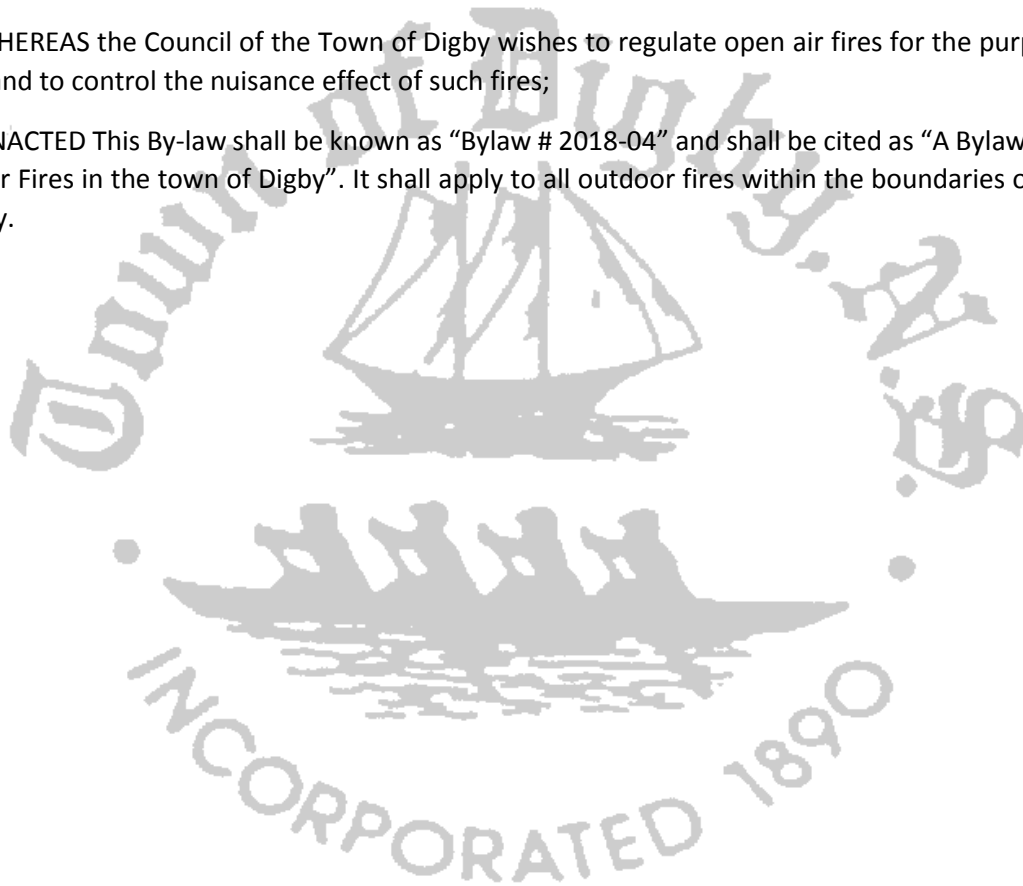
IN THE TOWN OF DIGBY

A By-law for the Town of Digby, in the Province of Nova Scotia, to provide for the regulation of outdoor fires and nuisance caused by smoke.

WHEREAS the Municipal Government Act (Nova Scotia), provides that the Council of a municipality may pass by-laws for the health, wellbeing, safety and protection of persons, safety and protection of property, and activities that may cause nuisances caused by burning, odours, and fumes.

AND WHEREAS the Council of the Town of Digby wishes to regulate open air fires for the purpose of fire safety and to control the nuisance effect of such fires;

BE IT ENACTED This By-law shall be known as "Bylaw # 2018-04" and shall be cited as "A Bylaw respecting Outdoor Fires in the town of Digby". It shall apply to all outdoor fires within the boundaries of the Town of Digby.



Part 1 – Definitions

For the purpose of this By-law, all words shall carry their customary meaning except for those defined hereafter:

- a) **“Acceptable Outdoor Wood Burning Appliance”** means an outdoor receptacle which is constructed from bricks, concrete blocks, heavy gauge steel, stone or other suitable non-combustible components, and has a spark arrestor or metal mesh screen, that is used for cooking and/or recreational fires and does not include outdoor wood furnaces.
- b) **“burn”** means to light or set fire to any material;
- c) **“certified”** means certified as meeting the standards of the Canadian Standards Association (CSA approved) or another internationally recognized testing organization;
- d) **“Chimenea”** includes a Chimenea or other small, commercially manufactured burning appliance constructed from a suitable fire resistant material with minimal capacity intended to burn small quantities of wood or charcoal. Such devices must have a screen door and a spark arrestor.
- e) **“Council”** means the Council of the Town of Digby.
- f) **“Designate”** means the person or persons designated by Council to enforce this By-law, and includes the By-law Enforcement Officer of the Town of Digby.
- g) **“Dry Seasoned Firewood”** means wood that has not been chemically treated, stained or painted and has been stored in a manner that deters dampness and permits the wood to dry;
- h) **“Emergency Measures Organization”** means the Emergency Measures Organization as established for the Town pursuant to the provisions of the Bylaws and Amendments of the Town of Digby.
- i) **“Fire Chief”** means Fire Chief for the Town of Digby, or his designate.
- j) **“Garden and Yard Waste”** means any shrubbery, tree prunings, leaves, brush, weeds, grass, roots, tree stumps, turf, and similar vegetation.
- k) **“General Waste”** means any rubbish, garbage, non-wooden material, packaging, containers, bottles, cans, rags, clothing, and petroleum products.
- l) **“Hazard”** means a risk of fire or damage to property and/or person(s) which may be caused by the burning of any waste and includes any nuisance.
- m) **“Nuisance”** means the causing of any smoke or other emission from any fire permitted under this by-law, or otherwise, that adversely affects the reasonable enjoyment by other persons of their property;

- n) **“Outdoor Fire”** means any fire located any place on a property that is not in a building and includes lawn or grass burning and burning for land clearing. A structure used mainly for the purpose of containing a burning facility or housing a vessel used for burning of materials or substances does not qualify as a building. For greater clarity, the burning of materials, articles or substances in any container outside a building shall be considered an outdoor fire.
- o) **“Outdoor Propane Fire Pit or Fireplace”** means a manufactured fire pit or fireplace commonly made of pre cast concrete or metal and/or a combination of a metal table and stone which are fueled by natural gas, propane (LP) or bio ethanol and used for recreational fires.
- p) **“Portable Barbecuing Appliance”** means any appliance sold or constructed for the purpose of cooking food outdoors, normally fueled by liquefied petroleum gas, natural gas, compressed briquettes, or charcoal.
- q) **“Recreational fire”** means, “Cooking fires and camp fires using solid fuels or Liquefied Petroleum Gas or natural gas for cooking or pleasure.
- r) **“Solid fuel”** means dry seasoned hard or soft wood, charcoal, mechanically processed fibre wood, pelletized wood and wood chips, suitable for the cooking of food;
- s) **“Suitable fire protection equipment”** means tools or equipment useful in extinguishing fires and preventing the spread of fires including but not limited to fire extinguishers, back tanks, buckets of water and hoses connected to an adequate water supply;
- t) **“Town”** means the Town of Digby.

Part 2 - Outdoor Fires Prohibited

- 2.1 No person shall be permitted to operate an Outdoor Wood Furnace within the Town;
- 2.2 Notwithstanding Part 2.1 Outdoor Wood Furnaces in existence as of the coming into force of this by-law shall continue to be operated providing they burn dry seasoned firewood or solid fuel, and they do not create a nuisance.
- 2.3 No person shall be permitted to have an outdoor fire within the Town, on any land owned or occupied by such person, or on any public lands owned by the Town, unless in accordance to Part 3 of this By-law;
- 2.4 No person shall be permitted to burn general waste, or garden and yard waste on any lands owned or occupied by such person, or on any other lands within the Town;
- 2.5 No person shall ignite an outdoor fire when:

- i. The Nova Scotia Department of Natural Resources has issued a fire ban for this area of the province;
- ii. The weather conditions may jeopardize the ability to control the fire;

Part 3 - Outdoor Fires Permitted

- 3.1** Persons shall be permitted to have a recreational fire to cook food using a portable barbecue or other food preparation appliances designed for outdoor use;
- 3.2** Persons shall be permitted to have a recreational fire in an outdoor propane fire pit or fireplace, which has been installed pursuant to the manufacturers specifications;
- 3.3** Persons shall be permitted to have a recreational fire in an acceptable outdoor wood burning appliance, providing that:
 - i. only seasoned dry firewood or other solid fuel is burned.
 - ii. a spark arrestor or mesh screen is used to contain any sparks or blowing debris;
 - iii. the acceptable outdoor wood burning appliance is located in excess of 15 feet from any building, flammable structure, combustible material or property line;
 - iv. Notwithstanding Part 3.3(iii), a Chimenea may be operated on a wooden deck provided:
 - a. it is positioned on a CSA approved fire-proof pad that extends at least eighteen (18) inches from where the door is located and eight (8) inches on all other sides;
 - b. it is seven (7) feet from the house and three (3) feet from any wooden surface that is not appropriately screened with a CSA approved fire-proof material;
 - c. the operation of a Chimenea meets any standards detailed in the operating instructions accompanying the device;
 - v. the fire does not create a nuisance;
 - vi. a responsible adult is present on the property while the fire is burning and until the fire is extinguished;
 - vii. a fire extinguisher, or other means of extinguishing a fire, acceptable to the Fire Chief/or designate, is within reasonable distance from where the fire is located;

3.4 Persons or organizations shall be permitted to ignite an outdoor fire providing that:

- i. the burning is for the purpose of training members for the Emergency Management Organization or the Digby Volunteer Fire Department;

Part 4 – Construction Requirements

- 4.1** An acceptable outdoor wood burning appliance must be properly constructed of a minimum of 1/8" (4mm) steel in thickness, natural stone, brick, block, concrete or similar non-combustible materials as approved by the Fire Chief or designate.
- 4.2** An acceptable outdoor wood burning appliance must be fitted with a spark arrester that has an opening no larger than 1/2" (12mm)
- 4.3** The actual size of the fire box in an outdoor appliance shall not be larger than 30" (762mm) in any dimension.
- 4.4** If the outdoor appliance is manufactured, the manufacturer's installation, care and use instructions shall be followed; if there is any discrepancy between the manufacturer's instructions and this by-law the approval of the fire inspector for the installation is required.
- 4.5** All natural gas or liquefied propane units must have certification from a Canadian testing agency.

Part 5 - Enforcement

- 5.1** The Fire Chief or designate have control over the prevention and suppression of Outdoor Fires within the Town and shall have the authority to extinguish or ordered extinguished any Outdoor Fire which poses a health or fire Hazard to persons or property, or which does not meet the provisions of this By-law.
- 5.2** The Fire Chief or designate may enter upon any land, at any reasonably necessary time, for the purpose of performing their duties and functions pursuant to this By-law.
- 5.3** No action in trespass or nuisance may be brought against a member of a Fire Department, Police Officer, By-law Enforcement Officer for the doing of any act or the carrying out of any operation necessarily incidental to the exercise of any duty or power pursuant to this By-law.

Part 6 - Offences and Penalties

- 6.1** Any person who contravenes any provisions of this Bylaw is punishable on summary conviction by a fine not exceeding five hundred (\$500.00) dollars and to a term of imprisonment of not more than ten (10) days in default of payment thereof..

- 6.2** Any person who contravenes this Bylaw and who is given notice of the contravention may pay to the Town of Digby, at the place specified in the Notice, the sum of \$250.00 (two hundred and fifty dollars) pursuant to the Payment in Lieu of Prosecution Policy within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.

Part 7 - Cost of Work

- 7.1** In addition to any fine imposed pursuant to Part 6, the property owner will be responsible for any expenses or damages, or other work lawfully done pursuant to this By-law, which are a result of a person contravening or failing to comply with this By-law, the cost of the work, with interest at the rate determined by Council, from the date of the completion of the work until the date of payment, is a first lien on the property upon which, or for the benefit of which, the work was done.

Part 8 - Compliance with Other Acts and By-laws

- 8.1** Nothing in this By-law shall exempt any person from obtaining any license, permission, permit, authority or approval required under any other By-law or regulation of the Town or any statute or regulation of the Province of Nova Scotia. If this By-law is in conflict with any other statute or regulation of the Province of Nova Scotia the more restrictive statute shall apply.

Part 9 – REPEALS

- 9.1** Bylaw # 2006-03 A By-law Respecting Open Fires in the Town of Digby is hereby repealed.

Clerk's Annotation for Official By-Law Book

Date of first reading: September 4, 2018

Date of advertisement of Notice of Intent to Consider: October 17, 2018

Date of second reading: November 5, 2018

*Date of advertisement of Passage of By-Law: November 14, 2018

Date of mailing to Minister a certified copy of By-Law: November 16, 2018

I certify that **A Bylaw Respecting Outdoor Fires in the Town of Digby** was adopted by Council and published as indicated above.



Clerk

November 16, 2018

Date

*** Effective Date of the By-Law unless otherwise specified in the text of the By-Law**

