

RODNEY DISTRICT COUNCIL

RODNEY DISTRICT COUNCIL GENERAL BYLAW: 1998

CHAPTER 3

FIRES IN THE OPEN AIR

EXPLANATION

The Council has powers under Section 146(c) of the Local Government Act 2002 to make a bylaw for the purpose of preventing the spread of fires in the open air. Any such bylaw is subject to Sections 20 to 22 of the Forest and Rural Fires Act 1977.

This chapter of this bylaw has been made in order to meet this purpose. The bylaw relates to the prevention of the spreading of fires in the open air within Urban Fire Districts. Outside these Fire Districts, the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 1979 apply.

This chapter of this bylaw requires that fires in the open air cannot be lit unless during an open fire season and subject to certain conditions or during a restricted fire season in accordance with a permit issued by the Council. There is also provision for a prohibited fire season to be specified during periods of extreme hazard. There are restrictions relating to the storage of timber, hay, and combustible materials, and to prevent smoke and ash causing a nuisance.

This bylaw is in addition to the requirements of the Auckland Regional Air, Land and Water Plan and any other statute.

1.0 **SCOPE**

- 1.1 This chapter of this bylaw relates to the prevention of the spreading of fires in the open air inside the Urban Fire Districts of the Rodney District.
- 1.2 This chapter of this bylaw is in addition to Section 183 of the Local Government Act 2002, which gives the Council powers to ensure the removal of vegetation and material that is likely to be a source of fire danger.
- 1.3 This chapter of this bylaw is complementary to the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 1979.
- 1.4 The operative Air Land and Water Plan 2003 of the Auckland Regional Council may require a consent to be obtained for a fire in the open air.
- 1.5 This chapter of this bylaw is subject to Sections 20 to 22 of the Forest and Rural Fires Act 1977, and hence any warning of extreme fire hazard issued under that section of the Act.

2.0 **INTERPRETATION**

FIRE DISTRICT	Means a fire district declared or constituted under section 26 of the Fire Service Act 1975
FIRE IN THE OPEN AIR	Means a fire other than within: <ul style="list-style-type: none">(a) a fireplace (including any enclosed fireproof place for combustion by fire) constructed and maintained in a dwelling structure or any other place to the approval of the Council; or(b) any barbeque whether fixed or portable:<ul style="list-style-type: none">(i) which is of a type or construction prescribed by regulations under the Forest and Rural Fires Act 1977 or authorised, specifically or generally, by the Fire Officer or Chief Fire Officer within whose jurisdiction the barbeque is to be used; and(ii) which is used in any area so prescribed or authorised; or(c) such other receptacle or place as may from time to time be authorised by the Council.
OPEN FIRE SEASON	Means any period of time during which the lighting of fires in the open air is neither prohibited nor restricted under this bylaw.
PROHIBITED FIRE SEASON	Means a period of time specified under this bylaw during which period the lighting of fires in the open air is prohibited.
RESTRICTED FIRE SEASON	Means, unless varied by Public Notice, the months of December in one year, and January, February and March of the following year.

3.0 **PROHIBITION AND RESTRICTION OF FIRES DURING PERIODS OF EXTREME FIRE HAZARD**

- 3.1 The Council or any a Authorised Officer may, at any time prescribe a prohibited or restricted fire season or seasons within the District or in any specified part or parts thereof, and may at any time cancel or vary such a prescription

- 3.2 The Council or any authorised officer shall give public notice as defined in Chapter 1 of this Bylaw, and:
- 3.3 If the Council or any authorised officer considers it desirable, by broadcast or other effective means within the District.
- 3.4 No person being the occupier of any premises shall cause, permit or allow any fire in the open air to be lit on the premises or to continue to burn there in contravention of any prohibition or restriction made under this chapter of this bylaw.

4.0 FIRES IN THE OPEN AIR

- 4.1 Regardless of whether or not permission has been obtained under any other statute no person shall light any fire in the open air or cause or permit any such fire to be lit other than:
- (a) In accordance with the requirements of this bylaw; or
 - (b) During an Open Fire Season.
 - (c) During a Restricted Fire Season, in accordance with a written permit in the form set out in the Schedule to this chapter of this bylaw or to like effect, from the Council or any authorised officer; or
 - (d) During a Prohibited Fire Season, in accordance with an exemption granted by the Council or any authorised officer under Clause 4 of this chapter of this bylaw.
- 4.2 Nothing in Section 4.1 shall apply to a recognised ethnic cooking fire. Provided that the Council or authorised officer may, in certain circumstances, include the above where it is considered necessary to do so.

5.0 EXEMPTIONS FROM PROHIBITION ON LIGHTING FIRES IN THE OPEN AIR

- 5.1 Subject to Section 20 of the Forest and Rural Fires Act 1977:
- The occupier of any premises in which any activity is being carried out which necessitates the use of fire in the open air, may apply in writing to the Council for an exemption from any Prohibited Fire Season imposed under this chapter of this bylaw where that activity would be prejudicially affected by such prohibition.

6.0 CONDITIONS ON LIGHTING FIRES IN THE OPEN AIR

- 6.1 No person shall light any fire in the open air or cause or permit any such fire to be lit and no person being the occupier of any premises shall cause, allow or permit any such fire to be lit or to continue to burn on the premises.
- (a) Without any prior consent as may be required under any act, regulation, bylaw or regional plan, and;
 - (b) When conditions are such that the fire is likely to spread beyond the premises or out of that person's control; or
 - (c) Within 3 metres of any part of a building, tree, hedge, fence or other combustible material; or

- (d) In urban areas between the hours of sunset and sunrise, without prior written consent from the Council or any authorised officer; or
- (e) Without maintaining adequate supervision to prevent the fire from spreading until such fire is fully extinguished; or
- (f) Where the location, wind, or other conditions cause or are likely to cause the fire to become;
 - i. a danger to any person or property; or
 - ii. a smoke or ash nuisance to any person.
- (g) Conditions (b) to (f) also apply to any barbeque or ethnic cooking fire.

7.0 STORAGE OF TIMBER

- 7.1 Except as provided in Clauses 7.2 and 7.3 of this chapter of this bylaw no occupier of any premises shall permit the storage or stacking in the open of timber, firewood, wooden cases, or similar combustible material unless the distance of the stack from any boundary of the premises other than a street boundary is at least equal to the height of the stack, but in any case not less than 1.5 metres.
- 7.2 A stack of timber, firewood, wooden cases, or similar combustible material may be placed closer to the boundary than the distance specified in Clause 7.1 if a wall constructed of fire-resistant material complying with a minimum of 1 hour fire rating and extending not less than 0.5 metres above and not less than 1.5 metres beyond the length of the stack, is situated between the stack and the boundary.
- 7.3 A stack of timber, firewood, wooden cases, or similar combustible material may, with the prior written consent of the adjoining owner and the Council (or any authorised officer), be placed closer to the boundary than the distance specified in Clause 7.1 while any of the following conditions continue to exist:
 - (a) There is a fire-resistant wall as defined in Clause 7.2 without openings situated on the adjoining property and within 1.5 metres of the common boundary; or
 - (b) There are no buildings on the adjoining land.

8.0 STORAGE OF COMBUSTIBLE MATERIALS

- 8.1 No person shall:
 - (a) Permit the storage or stacking in the open of any hay, sawdust, or similar combustible material unless the distance of the stack from any building, boundary, street, private street, public place, or adjacent land, is not less than 6 metres and from any dwelling or from any building on adjacent premises is not less than 15 metres and the intervening space is at all times kept free from rubbish, refuse, or obstruction of any kind.
 - (b) Permit the storage of any hay, sawdust, or similar combustible material in any building attached to or at a distance of less than 6 metres from any other building, and not less than 15 metres from any dwelling or from any building on adjacent premises, unless the first mentioned building has a roof of approved fire-resistant material and walls constructed wholly of fire resistant material and complying with Clause 8.2 hereof.

- 8.2 A stack of hay, sawdust, or similar combustible material may, with the prior written consent of the adjoining owner and the Council (or any authorised officer), be placed closer to the boundary than the distance specified in Clause 8.1 while any of the following conditions continue to exist:
- (a) There is a fire-resistant wall as defined in Clause 7.2 without openings situated on the adjoining property and within 1.5 metres of the common boundary; or
 - (b) There are no buildings on the adjoining land.

8.3 The provisions of Clause 8.1 shall not apply in any case where hay, straw, sawdust or similar combustible material required for the keeping of horses or calves is kept or stored in any building used only for the purpose of or in connection with a stable or calf shed.

9.0 BREACH OF BYLAW

- 9.1 Where the Council or any authorised officer reasonably believes that any fire in the open air contravenes this bylaw, the Council or any authorised officer shall have the right:
- (a) To extinguish the fire with the assistance of the Fire Service or by any other means available;
 - (b) To recover the cost of extinguishing the fire from any person (including an occupier) who lit the fire or caused or permitted the fire to be lit; and
 - (c) To proceed under Section 183 of the Local Government Act -2002, to ensure the removal, by the owner or occupier of land or by the Council or its agents, of vegetation or similar combustible materials and to recover the costs of doing so.

SCHEDULE

Forest and Rural Fires Act 1977, Section 23
Forest and Rural Fires Regulation 1979, Clause 26
Rodney District Council General Bylaw 1998

Rural Fire Authority:

FIRE PERMIT FOR OPEN FIRES IN A RESTRICTED FIRE SEASON No-----

Note: Consent may be required from the Auckland Regional Council in addition to this Permit.

TO

(Name):

(Address):

(Phone):

Pursuant to the provisions of:

- (a) Section 23 of the Forest and Rural Fires Act 1977; or
- (b) the Rodney District Council General Bylaw 1998 and all other relevant enactments;

and subject to compliance with the conditions here set out, you are hereby authorised to light a fire in the open air in accordance with the particulars in this Permit.

PARTICULARS

Locality:
(e.g. road, grid ref, etc)

Property:
(as required by Fire Authority)

Material:
(e.g. scrub, with location on property and area to be burned)

Date(s) and time of day:

General:
(e.g. land clearing operation)

CONDITIONS

Statutory conditions: See over.

Joint permit conditions: This is also a permit under the enactment(s) and on the conditions set out on the annexed countersigned sheet(s) on behalf

Of:

Special Conditions:

Rural Fire Officer

Date

EXTREME FIRE HAZARD NOTICES SUSPEND THIS PERMIT: See Conditions 6 overleaf.

NOTES FOR INFORMATION OF PERMITTEE

Under the Forest and Rural Fires Act 1977, the Forest and Rural Fires Regulation 1979 and the Rodney District Council General Bylaw 1998, there are compulsory conditions to the under mentioned effect. For their full legal form, please see the Act and Regulations and the Rodney District Council General Bylaw 1998

Open Air	1.	"Fire in the Open Air" has the meaning set out in Chapter 1 of the Rodney District Council General Bylaw 1998.
Wind, etc.	2.	Do not light up in a strong wind, or in conditions likely to spread the fire or to present a fire hazard (including an adverse long-range weather forecast). Check the weather forecast.
Camping, etc.	3.	If camping or cooking or needing comfort or warmth, keep fire at least 3 metres clear of any tree, log, stump, or dry vegetation. Remove all combustible material within 3 metres of the fire site.
Patrol	4.	Patrol the fire until completely out or cannot spread.
Notice	5.	Before lighting a controlled burn, notify neighbours as directed.
Extreme Hazard	6.	PERMITS ARE SUSPENDED by fire hazard emergency warnings or orders prohibiting all open air fires. Check by radio, or ring the Fire Authority. If fire is essential for emergency (e.g. stock disease) at such times, seek a "special permit".
Showing Permit	7.	This written permit must be produced on demand by a member of Police or a Fire Officer or any authorised officer of the District Council.
Damage	8.	A permit is not a legal defence against claims for damage caused by the fire.
Parks, etc.	9.	Except where officially signposted otherwise, permits are needed at all times for open fires in National or Maritime Parks, in specially protected sites, and in (including their fire safety margins of usually 1 kilometres) other State areas or forest area.
Escape	10.	If the fire gets out of hand, try to extinguish it. Urgently notify the New Zealand Fire Service or a Fire Officer.
Offences	11.	It is an offence to light an open air fire without the appropriate permit, or to break permit conditions or to let a fire spread to and injure a State area, forest area, or specially protected property, or to leave it unprotected against such spread.
Joint Permits	12.	Obtain further permits from soil conservation, Crown, or other statutory fire authorities whose approval is required, if this is not a joint permit signed on their behalf.
Landholder	13.	Separate consent by the landholder and/or the Auckland Regional Council may be needed.
Revocation		THIS PERMIT IS REVOCABLE UPON NOTICE AT ANY TIME WITHOUT PRIOR WARNING.