

FAQ

What is the Open Air Burning Bylaw?

The existing Bylaw sets out rules for outdoor fires so the fire does not become a safety hazard or a nuisance. Where the conditions are met, a fire may be lit.

What are some of the current rules?

The Bylaw sets out some conditions that outdoor fires must meet.

These include: A person must not light any fire at any time in the open air, or within a barbecue, brazier or incinerator, or burn a traditional cooking fire where the location, wind, or other conditions cause or are likely to cause the fire to become:

A danger to any person or property; or

- *Out of control or spread beyond the boundaries of the premises on which it is lit; or*
- *A nuisance beyond the boundaries of the premises on which it is lit; or to:*
- *Deposit ash or other debris beyond the boundaries of the premises on which it is lit.*
- *The Open Air Burning Bylaw does not include indoor open fires, such as in a fireplace.*

What does 'revoking' the bylaw mean?

When a bylaw is revoked, it means it is discontinued and will no longer be in effect.

Why are we proposing to revoke the Open Air Burning Bylaw?

After a review of emissions levels and complaints received by Council as well as discussions with Waikato Regional Council (WRC), we did not identify a big issue with open air burning in Hamilton.

Changes to Government legislation since 2015, and the introduction of the Waste Management and Minimisation Bylaw in 2019 (which prohibits the burning of any waste except for organic materials), have reduced the need for the Open Air Burning Bylaw.

What will happen if I want to make a complaint about my neighbour's backyard fire?

You can continue to call Council like you can now. If an open air fire is causing any problem/s, Council will still respond. What will change is the legislation or bylaw used to enforce any breach/es.

Enforcement will then occur according to which legislation or bylaw has been breached.

- If it is a rubbish fire: enforcement will be under the Waste Management and Minimisation Bylaw 2019.
- If the fire is causing a health issue: enforcement will be under the Health Act 1956.
- If the fire is causing a discharge to air, land or water: enforcement will be carried out by the Waikato Regional Council.

What happens if we do not revoke the Bylaw?

If we do not revoke the Bylaw, it will continue to be in effect. This will mean we have a bylaw that 'doubles up' with other bylaws and legislation and may cause confusion during enforcement.

If the Bylaw is revoked will I still be able to use a BBQ, brazier or haangi?

Revoking the Open Air Burning Bylaw will not affect the use of BBQs, braziers and haangi. These will still be able to be used if the area is not under a fire restriction or prohibition; and they are not being used in a way which is likely to cause an out of control fire or health hazard.

You can find more information about fire restrictions here: checkitsalright.nz/can-i-light-a-fire



Open air fires can cause air pollution - shouldn't we be getting stricter on enforcement?

This is where the Waste Management and Minimisation Bylaw 2019 comes in. Stricter measures have been put in place which prohibits any person from burning or allowing to be burnt on any property they own, occupy or manage any waste except organic matter.

Additional information about emissions of air contaminants can be found in the following reports and websites:

- [Airshed Modelling for Hamilton City](#)
- [Waikato Region Greenhouse Gas Emissions Inventory](#)
- [Ambient air quality monitoring report for the Waikato Region - 2017.](#)

How will regulations for outdoor burning be enforced if the Bylaw is revoked?

Outdoor burning is covered by a range of legislation. Here's a summary:

Legislation/Regulation/Bylaw	Summary
Fire and Emergency New Zealand Act 2017 (FENZ Act)	<p><i>Primarily related to preventing or controlling fires in emergency situations.</i></p> <p>A person who has notice that the lighting of fires in open air in an area is prohibited must not light or allow another person to light a fire in open air in that area unless a permit is granted under regulations made under section 190 of the FENZ Act.</p>
Waikato Regional Plan	<p><i>Primarily related to preventing or controlling fires where there may be discharge of contaminants into air and any subsequent discharge of contaminants onto land.</i></p> <p>The Regional Plan prohibits the burning of a range of hazardous materials and states:</p> <ul style="list-style-type: none">• There shall be no discharge of contaminants beyond the boundary of the subject property that has adverse effects on human health, or the health of flora and fauna.• The discharge shall not result in odour that is objectionable to the extent that it causes an adverse effect at or beyond the boundary of the subject property.• There shall be no discharge of particulate matter that is objectionable to the extent that it causes an adverse effect at or beyond the boundary of the subject property.• The discharge shall not significantly impair visibility beyond the boundary of the subject property.• The discharge shall not cause accelerated corrosion or accelerated deterioration to structures beyond the boundary of the subject property.
Hamilton Waste Management and Minimisation Bylaw 2019	<p><i>Prohibits any person from burning or allowing to be burnt on any property they own, occupy or manage any waste except organic matter.</i></p>
Health Act 1956	<p><i>Primarily related to preventing or controlling fires where there is a statutory nuisance creating a public health issue.</i></p>



Who do I report a fire to if the Bylaw is revoked?

