

SOUTHLAND DISTRICT COUNCIL

FIRE PREVENTION (VEGETATION) BYLAW 2005

IN PURSUANCE of the powers contained in the Local Government Act 2002 and any other Act or authority enabling the Southland District Council in that behalf the Council makes the following Bylaw:

THE SOUTHLAND DISTRICT COUNCIL FIRE PREVENTION (VEGETATION) BYLAW 2005

Analysis

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1.0 REVOCATION

The Southland District Council Fire Prevention (Vegetation) Bylaw 1999 is revoked with effect from the day this Bylaw comes into force.

2.0 TITLE AND COMMENCEMENT

- (a) This Bylaw may be cited as the Southland District Council Fire Prevention (Vegetation) Bylaw 2005
- (b) This Bylaw shall come into force on the 12th day of September 2005.

3.0 APPLICATION OF BYLAW

- (a) This Bylaw has been made for the purpose of preventing the spread of fires within those **URBAN AREAS** of the district of Southland District Council.
- (b) This Bylaw is subject to Sections 20, 21 and 22 of the Forest and Rural Fires Act 1977 that make provision for the prohibition of fires during extreme fire hazard (s 20), prohibition of certain operations during periods of extreme fire hazard (s 21) and Restricted or Prohibited fire seasons (s 22).

- (c) This Bylaw is in addition to existing fire control and prevention measures available under the Local Government Act 2002, the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 1979.

4.0 INTERPRETATION

4.1 In this Bylaw, unless the context otherwise requires:

“A pproved”	Means approved by the Council.
“B arbecue”	Means any fixed or portable gas or solid fuel burning equipment designed or intended for the cooking of food in the open air.
“C ouncil”	Means the Southland District Council.
“D istrict”	Means the district comprising the Southland District Council.
“F ire H azard”	Means a term to describe the potential fire behaviour for a given fuel type.
“F ire O fficer”	Means any person appointed by the Southern Rural Fire Committee as a Rural Fire Officer or Principal Rural Fire Officer.
“F ire R isk”	Means the probability or chance of a fire starting determined by the presence of activities or causative agents, ie the potential number of ignition sources.
“I ncinera tor”	Means a container used for burning of waste material. An incinerator is to be made of non-combustible materials and have a lid or spark arrestor to prevent the escape of embers and ash.
“O ccup ier”	Means in relation to any premises, the owner and includes any tenant, agent, manager, foreperson or other person apparently acting in the general management or control of the premises.
“O pen A ir”	Means in relation to fires otherwise than within:- (a) An incinerator (b) Any barbecue or (c) Traditional cooking fire.

“Open Fire Season”	Means a period of time whether of fixed or indefinite duration during which period the lighting of fires in the open air is neither prohibited nor restricted under the Forest and Rural Fires Act 1977.
“Permit”	In relation to the lighting of fires in the open air, means a fire control measure in accordance with which a person may light such fires without committing an offence against this Bylaw.
“Premises”	Means both land and buildings and any part thereof.
“Prohibited Fire Season”	Means a period of time, whether of fixed or indefinite duration, specified pursuant to the Forest and Rural Fires Act 1977 during which period the lighting of fires in the open air is prohibited.
“Restricted Fire Season”	Means a period of time, whether of fixed or indefinite duration, specified pursuant to the Forest and Rural Fires Act 1977, during which period permits are required for the lighting of fires in the open air.
“Southern Rural Fire Committee”	Means the Rural Fire Committee responsible for the administration of the Southern Rural Fire District for the purposes of the Forest and Rural Fires Act 1977 pursuant to New Zealand Gazette Notice No. 78 at Page 2074 dated 10 July 2003.
“Southern Rural Fire District”	Means the Southern Rural Fire District gazetted pursuant to the Forest and Rural Fires Act 1977, and which includes all land within the District that is not within Urban Fire Districts.
“Traditional Cooking Fires”	Means any hangi, Umu or similar fire in the open air used for the preparation of food using traditional cooking methods.
“Urban Area”	Means an area used mainly for commercial, industrial or residential purposes within the District.
“Urban Fire District”	Means any area gazetted as a Fire Service District and for which the NZ Fire Service is the fire authority under the Fire Service Act 1975.

“Vegetation”

Includes:

- (a) All plants and the produce thereof, live or dead, standing, fallen, windblown, cut, broken, pulverised, sawn, or harvested, natural or disturbed in use or as waste, rubbish, refuse or debris, stump, stubble or otherwise; and
 - (b) Fossil fuel exposed at or lying within 20 metres of the surface of any land; and
 - (c) Peat in any form,
- but does not include wood forming part of a structure or otherwise in processed form.

5.0 RELATIONSHIP TO OTHER STATUTES

5.1 This bylaw represents a fire control measure which is in addition to and complements provisions of:

- (a) The Local Government Act 2002; and
- (b) The Forest and Rural Fires Act 1977; and
- (c) The Forest and Rural Fires Regulations 1979; and
- (d) The Fire Service Act 1975.

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

6.0 FIRE DISTRICTS

6.1 Fire Districts are established 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 Council.

- (a) Urban Fire Districts – Any area gazetted as a Fire Service District and for which the NZ Fire Service is the fire authority under the Fire Service Act 1975. These areas may be served by either paid or volunteer fire brigades.
- (b) Rural Fire Districts – All areas that are not Urban Fire Districts and come under the jurisdiction of the Southern Rural Fire District.

7.0 PREVENTION OF VEGETATION FIRES

- 7.1 No person shall cause or allow to persist any condition that increases the likelihood of accidental vegetation fire or its spread or in particular:
- (a) No person shall allow the growth of vegetation on a property that creates or makes worse an unacceptable fire hazard; and
 - (b) No person shall allow the placing or storage of any materials on any property in such a manner that creates or makes worse an unacceptable vegetation fire hazard and in particular shall not:
 - (i) Place live cinders or ashes in any place other than in a steel or other suitably fire resistant container or in a pit or upon any fire resistant substance in such a way that prevents the spreading of fire or ashes or heat by the action of 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 other than in a manner which 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.
- 7.2 Any such fire hazard that an occupier or owner fails to remedy after being advised to do so within a reasonable timeframe given the circumstances of the risk may, subject to the provisions of sections 183 and 184 of the Local Government Act 2002, be removed by the Council and the costs may be recovered from the owner or occupier.

8.0 FIRES IN OPEN AIR IN URBAN FIRE DISTRICTS

- 8.1 The Southern Rural Fire Committee may declare a Restricted Fire Season or Prohibited Fire Season (Fire Ban) in a rural area under the provisions of the Forest and Rural Fires Act 1977
- 8.2 Where a Restricted Fire Season or Prohibited Fire Season is in force in an area that includes an Urban Fire District that Restriction or Prohibition is deemed to exist concurrently in the Urban Fire District under this bylaw.
- 8.3 Lighting fires in the Open Air in an Urban Fire District is a permitted activity of this bylaw subject to the following conditions:
- No person shall make or light or allow to remain alight any fire in the open air other than:
- (a) During an Open Fire Season or

- (b) Pursuant to and in accordance with the conditions of a written permit issued during a Restricted Fire Season by the Southern Rural Fire Committee.

8.4 The following burning activities are exempt from requiring a written fire permit during a Restricted Fire Season as long as the following conditions are met:

- (a) **Fires in incinerators** provided that:
 - The incinerator is designed to prevent the escape of fire and ashes (including a mesh or solid lid); and
 - The incinerator is no closer than 5 metres to any building, tree, hedge, fence or other combustible material; and
 - A water supply sufficient to control any spread of fire is available; and
 - All embers and ashes are totally extinguished after burning; and
 - The incinerator is only to be lit during daylight hours and must be extinguished before dark.
- (b) **Barbeque and cooking fires** provided that:
 - The barbeque or cooking fire is no closer than 5 metres to any building, tree, fence, hedge or other combustible material; and
 - A water supply sufficient to control any spread of fire must be available – mains pressure hose is best, or a number of buckets filled and ready; and
 - All embers and ashes are totally extinguished after burning; and
 - The barbeque or fire is not left unattended.
- (c) **Traditional cooking fires** provided that:
 - The fire is no closer than 10 metres to any building, tree, fence, hedge or other combustible material; and
 - A water supply sufficient to control any spread of fire must be available – mains pressure hose is best, or a number of buckets filled and ready; and
 - All embers and ashes are totally extinguished after burning; and
 - The fire is not left unattended.

9.0 GENERAL RESTRICTIONS ON FIRES IN THE OPEN AIR (OUTDOOR FIRES) IN URBAN FIRE DISTRICTS

- 9.1 No person being the occupier of any premises shall permit or suffer the use of any fire:
 - (a) Which by location, risk of spread, inadequate containment or prevailing circumstances of wind or otherwise constitutes or is likely to constitute a danger to any person or property; and
 - (b) Without there being available an adequate source of water sufficient for the extinguishment of any fire; and
 - (c) Without maintaining adequate supervision.

9.2 In addition no fire:

- (a) Whether the subject of a permit or not, is allowed to be lit or to remain alight during the period of a total fire Ban (Prohibited Fire Season) covering the locality of the fire; and
- (b) Whether the subject of a permit or not, is allowed to be lit on any public or private land without the permission of the person or body owning or controlling the land; and
- (c) Is allowed to be lit on any beach or beach reserve except in a properly constructed fireplace provided by the administering body controlling the reserve.

10.0 PERMITS FOR LIGHTING FIRES IN THE OPEN AIR IN URBAN FIRE DISTRICTS

A permit may be granted for non-complying fires in urban fire districts where:

- (a) No total Fire Ban (Prohibited Fire Season) is in place that covers the locality of the fire; and
- (b) In the opinion of a Fire Officer the fire will not pose an unacceptable fire risk; and
- (c) The fire is for a celebratory bonfire during the hours of darkness; and
- (d) The fire is for a significant community event.

11.0 SPECIAL PERMITS FOR LIGHTING FIRES IN THE OPEN AIR IN URBAN FIRE DISTRICTS DURING A TOTAL FIRE BAN (PROHIBITED FIRE SEASON)

- 11.1 Applications may be made for a special permit to be granted where the fire is urgently required to prevent, reduce or overcome any hazard to life or health or in other serious emergency.
- 11.2 Upon receipt of any such application the Fire Officer may issue a Special Fire Permit in writing with such conditions as it considers fit to impose.
- 11.3 Notwithstanding the provisions of Clause 8.3(b) of this Bylaw no person shall light any fire in the open air and no person being the occupier of any premises shall cause, allow or suffer any such fire to be lit there or continue to burn:
 - (a) While a strong wind is blowing or when conditions are such that the fire is likely to spread beyond the limits of the land or other property; and
 - (b) Which is within five metres of any part of a building, tree, hedge, fence or other combustible material; and

- (c) Between the hours of sunset and sunrise, without specific approval/permission; and
- (d) Without maintaining adequate supervision during any burning.

Issue of Fire Permits

11.4 Every permit to light a fire in the open air shall be in the form or to the effect of Form No. 1 ("Fire Permit") set out in the Schedule hereto and in the case of a Special Fire Permit in the form or to the effect of Form No. 2 (Special Fire Permit) set out in the Schedule in this Bylaw.

12.0 PROHIBITION OF FIRES DURING PERIODS OF EXTREME FIRE HAZARD

12.1 The Southern Rural Fire Committee in accordance with the Forest and Rural Fires Act 1977 may at any time where in its opinion special reasons exist or may exist to prevent the outbreak or spread of fire, specify any restricted or prohibited fire season or seasons in the district or in any specified part or parts of the district and may at any time and from time to time cancel or vary any such season or seasons.

12.2 The Southern Rural Fire Committee shall give public notice of any restricted or prohibited fire season by:

- (a) Broadcast or other effective means within the district AND by
- (b) Notice in a daily newspaper circulating throughout the district.

12.3 No person shall light any fire in the open air and no person being the occupier of any premises shall cause, permit or suffer any such fires to be lit there or to continue to burn in contravention of any prohibition made under this clause.

13.0 OUTDOOR FIRE MAY BE DECLARED UNSAFE

13.1 If in the opinion of a member of the New Zealand Fire Service or a Fire Officer of the Southern Rural Fire Committee a fire that is about to be lit, is alight or has been alight and fails to meet any condition above or otherwise poses a danger that fire ceases to be a permitted activity and shall be extinguished immediately.

14.0 COSTS OF FIRE SUPPRESSION RECOVERED

14.1 The costs of suppressing any fire may be recovered from the occupier of premises on which the fire was located or the person or persons responsible for a fire that gets out of control or is deemed unsafe whether the fire is a permitted activity or not.

SCHEDULE

Form 1

Forest and Rural Fires Act 1977, Section 23

Forest and Rural Fires Regulations 1979, Regulation 26

Southland District Council Fire Prevention (Vegetation) Bylaw, Clause 11

Fire Authority: Southern Rural Fire Committee

FIRE PERMIT

TO:

Name: _____

Address: _____

Phone: _____

Pursuant to Section 23 of the Forest and Rural Fires Act 1977 and all other relevant enactments, the Southland District Council Fire Prevention (Vegetation) Bylaw 2005, and compliance with the conditions here set out, you are hereby authorised to light in the open air a fire in accordance with the particulars in this Permit.

Particulars

Locality: _____
(eg road, grid reference etc)

Property: _____
(as required by Fire Authority)

Material: _____
(eg scrub with location on property and area to be burned)

Date(s) and Time of Day: _____

General: _____
(eg 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: _____

Fire Officer

Date

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

SCHEDULE continued

Notes for Information of Permittee

Under the Forest and Rural Fires Act 1977, the Forest and Rural Fires Regulations 1979 and the Southland District Council Fire Prevention (Vegetation) Bylaw 2005, there are compulsory conditions to the undermentioned effect. For their full legal form, please see the Act and Regulations and Southland District Council Fire Prevention Bylaw.

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| Open Air | 1. "Open Air" means not in a fireplace, incinerator, barbecue, or other place, duly approved in each case. |
| 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 three metres clear of any tree, log, stump, or dry vegetation. Remove all combustible material within three 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 (eg 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. |
| 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 one kilometre) other state areas or forest areas. |
| Escape | 10. If the fire gets out of hand, try to extinguish it. Urgently notify the New Zealand Fire Service or a Fire Officer. |
| Offence | 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 may be needed. |
| Revocation | THIS PERMIT IS REVOCABLE UPON NOTICE AT ANY TIME WITHOUT PRIOR WARNING. |

SCHEDULE

Form 2

Section 24 Reg. 27

Fire Authority: Southern Rural Fire Committee

SPECIAL FIRE PERMIT

TO:

Name: _____

Address: _____

Phone: _____

Pursuant to Section 24 of the Forest and Rural Fires Act 1977 and all other relevant enactments, and subject to compliance with the conditions here set out, you are hereby authorised to light in the open air a fire in accordance with the particulars of this permit notwithstanding any warning under Section 20 or order under Section 21 or prohibited season under Section 22 of that Act.

Particulars

Locality: _____
(eg road, grid reference etc)

Property: _____
(as required by Fire Authority)

Material: _____
(eg sheep carcasses, with location on property)

Date(s) and Time of Day: _____

General: _____
(eg scrapie eradication)

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:

1. Fire to be at all times supervised on behalf of Fire Authority by Mr _____, and firebreaks, equipment, patrols, standby, and all other fire control measures to be to his approval.
2. Disease/_____ requirements to be to approval of Mr _____ on behalf of _____ Department.
3. _____
(as required)

Principal Fire Officer

Date

SCHEDULE continued

Notes for Information of Special Permittee

Under the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 1979 there are compulsory conditions to the undermentioned effect. For their full legal form, please see the Act and Regulations.

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| Open Air | 1. "Open Air" means not in a fireplace, incinerator, barbecue, or other place, duly approved in each case. |
| 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. |
| Notice | 3. See that (except in extreme urgency) at least one day's notice has been given to
Immediate neighbours;
Adjacent fire authorities;
Other statutory fire authorities (eg Soil Conservator, Commissioner of Crown Lands, etc);
Agriculture and Fisheries Department, Health Department or other authority concerned in the emergency;
Federated Farmers of New Zealand (Incorporated); and
Local news media. |
| Showing Permit | 4. This written permit must be produced on demand by a member of Police or a Fire Officer. |
| Damage | 5. A permit is not a legal defence against claims for damage caused by the fire. |
| Offence | 6. 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 | 7. Obtain further permits from soil conservation, Crown, or other statutory fire authorities whose consent is required, if this is not a joint permit signed on their behalf. |
| Landholder | 8. Separate consent by the landholder may be needed. |
| Revocation | THIS PERMIT IS REVOCABLE UPON NOTICE AT ANY TIME WITHOUT PRIOR WARNING. |