

THE CORPORATION OF THE TOWNSHIP OF TINY

BY-LAW NUMBER 15-027

Being a By-law regulating the setting of open air fires, including establishing the times during which open air fires may be set and to repeal By-law 13-057

WHEREAS Part 7.1(1)(b) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, Chapter 4*, as amended, provides that the Council of a municipality may pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

NOW THEREFORE the Council for The Corporation of the Township of Tiny hereby enacts as follows:

**TITLE**

This by-law shall be known and may be cited as the "Open Air Burning By-law." In the text of the by-law, it is referred to as "this by-law."

**1. DEFINITIONS**

In this by-law:

- 1.1 "Chief Fire Official" means an assistant to the Fire Marshal who is the municipal fire chief or a member or members of the fire department as delegated by the municipal fire chief, as provided in the *Fire Protection and Prevention Act, 1997, Part II, Article 6 (6)*.
- 1.2 "Chiminea" means clay, porcelain or metal receptacle used for the purposes of burning and constitutes as an open air fire under this by-law.
- 1.3 "Class A Burning Permit" means a permit for a small recreational fire not exceeding 1 metre in diameter.
- 1.4 "Class B Burning Permit" means a permit for a large fire for the purpose of land clearing not to exceed 6 metres in diameter or height.
- 1.5 "Class C Burning Permit" means a permit for a small recreational fire not exceeding 0.6 metre in diameter.
- 1.6 "Controllable Fire" means a fire that may be extinguished using on site resources.
- 1.7 "Extinguish" means to put out or quench a fire completely, no smoke, hot or glowing embers are to remain.
- 1.8 "Gas-fired outdoor campfire device" means listed ULC or CSA gas (natural, propane) appliances, which shall not constitute open air burning under this by-law.
- 1.9 "Flying Lantern" means a small hot air balloon made of treated paper or any other material, with an opening at the bottom, which is propelled by an open flame generated by a small candle or fuel cell, allowing the balloon to rise and float in the air, uncontrollably, while ignited.

- 1.10 **"Nuisance"** shall mean use of property or course of conduct that interferes with the rights of others by causing damage, inconvenience or annoyance, or something that causes harm, offence, or adverse effect, either to people in general or to a private individual.
- 1.11 **"Officer"** means a Municipal Law Enforcement Officer, Police Officer, Chief Fire Official or Designate.
- 1.12 **"Open Air"** includes any open place, yard, field or construction area which is not enclosed by a building or structure.
- 1.13 **"Owner"** means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property.
- 1.14 **"Township"** means The Corporation of the Township of Tiny.

## 2. **GENERAL**

- 2.1 No person shall set or maintain a fire in open air unless a permit has been issued by the Township under this by-law.
- 2.1.1 A permit obtained under this by-law allows the burning of brush and unpainted/untreated wood only, in accordance with the other provisions of this by-law.
- 2.1.2 Every person who applies for, receives, and signs a fire permit acknowledges an understanding of the rules specified in Section 2.2 of this by-law, (or Section 2.3, or Section 2.4, where applicable) and assumes all responsibility and liability.
- 2.1.3 In the absence of a fire permit being obtained, the owner of property on which a fire has been set or permitted to burn in the open air shall be deemed to have permitted the fire to burn and assumes all responsibility and liability.
- 2.1.4 A gas-fired outdoor campfire device is exempt from this by-law, but is subject to conform with Article 2.6.3.4. of the Ontario Fire Code i.e. gas barbeques, heatalators, outdoor radiant gas heaters. Appliances of this nature would also be regulated under the Propane Utilization Code or the Natural Gas Installation Code, depending upon the gas being used.
- 2.1.5 A permit obtained under this by-law is valid for:
- a) Class "A" Burning Permit, the calendar year in which it is issued.
  - b) Class "B" Burning Permit, the calendar year in which it is issued. Notwithstanding, no Class "B" burns are permitted between May 15 and September 30.
  - c) Class "C" Burning Permit, the calendar year in which it is issued.

2.1.6 Open air burning requiring a Class “B” Burning Permit or a Class “C” Burning Permit shall not be permitted unless approved by the Chief Fire Official or Designate.

2.2 Where a Class “A” Burning Permit has been obtained under this by-law, no person shall set or maintain a fire in open air other than in compliance with the terms and conditions of the said permit.

The terms and conditions on which the permit is issued are as follows:

- 2.2.1 No more than one controllable fire per residence;
- 2.2.2 No fire shall contain rubber tires, plastic products, shingles, leaves, painted/treated wood or other materials that are known to create excessive smoke;
- 2.2.3 No fire shall be at a distance of less than three (3) metres from any building, structure, hedge, fence, vehicular roadway, overhead wire or combustible material whatsoever;
- 2.2.4 No fire shall be permitted if the wind velocity is reported to be greater than twenty (20) kilometers per hour;
- 2.2.5 No fire shall be permitted without ensuring a person able to supervise such fire and who is equipped with adequate tools and/or water to extinguish it promptly in the event of danger of the spread of such fire and is in constant immediate attendance at the specific place where the fire is burning;
- 2.2.6 Ensuring such fire is completely extinguished before leaving the specific place where the fire was burning;
- 2.2.7 No fire shall be permitted unless it complies with all the relevant provisions of the *Environmental Protection Act, R.S.O. 1990, c. E. 19*, as amended;
- 2.2.8 No fire shall be permitted between the hours of 2:00 a.m. and 8:00 a.m.;
- 2.2.9 No fires shall be permitted when a fire ban is in effect;
- 2.2.10 The material being burned shall not exceed 1 metre in diameter or 1 meter in height;
- 2.2.11 No fire shall be permitted upon any land owned by the Township without having first obtained permission to do so from the Chief Fire Official or Designate;
- 2.2.12 No person shall set or maintain a fire in open air that produces smoke or other by-products of combustion in such amounts that may create a nuisance or health-related problem to neighbours;

2.2.13 Notwithstanding Section 2.2.12, if after considering the merits of a complaint in this regard, the Officer determines that the fire should be extinguished; the owner shall be advised to do so immediately. If the owner refuses to extinguish the fire, the Fire Department will be requested to extinguish the fire in accordance with Section 5.2 of this by-law.

2.3 Where a Class “B” Burning Permit has been obtained under this by-law, no person shall set or maintain a fire in open air other than in compliance with the terms and conditions of the said permit.

The terms and conditions on which the permit is issued are as follows:

- 2.3.1 No more than one (1) controllable fire per property, unless specifically approved, in writing, by the Chief Fire Official or Designate;
- 2.3.2 No fire shall contain rubber tires, plastic products, shingles, painted/treated wood or other materials that are known to create excessive smoke;
- 2.3.3 No fire shall be at a distance of less than thirty (30) metres from any building, structure, hedge, fence, vehicular roadway or overhead wire or obstruction of any kind or nature whatsoever;
- 2.3.4 No fire shall be permitted if the wind velocity is reported to be greater than twenty (20) kilometers per hour;
- 2.3.5 No fire shall be permitted without ensuring a person able to supervise such fire and who is equipped with adequate tools and/or water to extinguish it promptly in the event of danger of the spread of such fire and is in constant immediate attendance at the specific place where the fire is burning;
- 2.3.6 Ensuring such fire is completely extinguished before leaving the specific place where the fire was burning;
- 2.3.7 No fire shall be permitted unless there is a space free and clear of combustible material around the perimeter of such fire of at least seven (7) metres;
- 2.3.8 No fire shall be permitted unless it complies with all the relevant provisions of the *Environmental Protection Act, R.S.O. 1990, c. E. 19*, as amended;
- 2.3.9 No fire shall be permitted when a fire ban is in effect;
- 2.3.10 The material to be burned shall not exceed 6 metres in diameter or 6 metres in height;
- 2.3.11 No fire shall be permitted upon any land owned by the Township without having first obtained permission to do so from the Chief Fire Official or Designate.

- 2.4 Where a Class “C” Burning Permit has been obtained under this by-law, no person shall set or maintain in open air other than in compliance with the terms and conditions of the said permit.

The terms and conditions on which the permit is issued are as follows:

- 2.4.1 No more than one controllable fire per campground lot;
  - 2.4.2 No fire shall contain rubber tires, plastic products, shingles, leaves, painted/treated wood or other materials that are known to create excessive smoke;
  - 2.4.3 No fire shall be at a distance of less than 2.5 metres from any building, structure, hedge, fence, vehicular roadway, overhead wire or combustible material whatsoever;
  - 2.4.4 No fire shall be permitted if the wind velocity is reported to be greater than twenty (20) kilometres per hour;
  - 2.4.5 No fire shall be permitted without ensuring a person able to supervise such fire and who is equipped with adequate tools and/or water to extinguish it promptly in the event of danger of the spread of such fire and is in constant immediate attendance at the specific place where the fire is burning;
  - 2.4.6 Ensuring such fire is completely extinguished before leaving the specific place where the fire was burning;
  - 2.4.7 No fire shall be permitted unless it complies with all the relevant provisions of the *Environmental Protection Act, R.S.O. 1990, c. E. 19*, as amended;
  - 2.4.8 No fire shall be permitted between the hours of 2:00 a.m. and 8:00 a.m.;
  - 2.4.9 No fires shall be permitted when a fire ban is in effect;
  - 2.4.10 The material to be burned shall not exceed 0.6 metres in diameter or 0.6 metres in height;
  - 2.4.11 No fire shall be permitted upon any land owned by the Township without having first obtained permission to do so from the Chief Fire Official or Designate.
- 2.5. No person shall ignite or release into the air, an ignited flying lantern within the Township of Tiny.

**3. ENTRY AND INSPECTION**

- 3.1 An Officer may at any time, enter onto land to determine whether this bylaw is being complied with.
- 3.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this by-law.

3.3 Notwithstanding any provision of this by-law, an Officer shall not enter or remain in any room or place actually being used as a dwelling, unless:

3.3.1 the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of a warrant issued under the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.

3.3.2 a warrant issued under the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended, is obtained.

#### 4. **OBSTRUCTION**

4.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this by-law.

4.2 Any person who has been alleged to have contravened any of the provisions of this by-law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

#### 5. **FEES**

5.1 The cost for obtaining a fire permit shall be as set out in the Township's Fee Schedule By-law, as amended.

5.2 Upon the Fire Department attending to extinguish an open air fire that is not in accordance with any section of this by-law, the owner may be responsible to pay fees as set out in the Township's Fee Schedule By-law, as amended.

#### 6. **PENALTY**

6.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended.

#### 7. **ADMINISTRATION AND ENFORCEMENT**

7.1 An Officer is hereby vested with the authority of enforcing the provisions of this by-law.

7.2 Any permit issued under this by-law may be revoked if in the opinion of the Chief Fire Official or Designate, or the Municipal Law Enforcement Officer the user is in contravention of this by-law.

#### 8. **VALIDITY AND SEVERABILITY**

8.1 Every provision of this by-law is declared to be severable from the remainder and if any provision of this by-law shall be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the remainder.

9. **REPEAL OF PREVIOUS BY-LAWS**

9.1 That By-law 13-057 is hereby repealed.

10. **EFFECTIVE DATE**

10.1 This by-law shall come into force and take effect on the 1<sup>st</sup> day of January 2016.

**BY-LAW READ A FIRST AND SECOND TIME THIS 11<sup>TH</sup> DAY OF MAY 2015.**

**READ A THIRD TIME AND FINALLY PASSED THIS 11<sup>TH</sup> DAY OF MAY 2015.**

**THE CORPORATION OF THE TOWNSHIP OF TINY**



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**MAYOR, George Cornell**



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**CHIEF ADMINISTRATIVE OFFICE/CLERK, Doug Luker**