

THE CORPORATION OF THE MUNICIPALITY OF SHUNIAH

BY-LAW NO. 2649-13

A By-Law to prescribe the conditions under which fires may be set in Open Air and to govern the issuance of Fire Permits and to Repeal By-law Number 1953-98

Recitals:

- a) The Forest Fires Prevention Act allows the Council of a municipality to pass by-laws to prescribe regulations in which fires may be set in the open air and the precautions to be observed by persons setting out fires;
- b) The Municipal Act authorizes Council to recover the expense incurred in doing any such matter or thing as required by by-law, in default of its being done by the person directed or required to do it, by action, or in like manner as municipal taxes;
- c) The Municipal Act authorizes appointed officers to ascertain whether the by-law is obeyed, and to enforce or carry into effect the by-law;
- d) The Municipal Act authorizes the Council of a municipality to pass by-laws to make such other regulations for preventing fire and the spread of fires as the Council considers necessary.
- e) The Municipal Act authorizes Council to pass by-laws for the imposition and collection of fees or charges for services or activities provided by the municipality;

NOW THEREFORE the Council of The Corporation of the MUNICIPALITY OF SHUNIAH hereby enacts as follows:

1. Definitions

For the purpose of this by-law,

- a) "Adverse Effect" means one or more of the following,
 - (i) Impairment of the quality of the natural environment.
 - (ii) Injury or damage to property or to plant or animal life,
 - (iii) Harm or material discomfort to any person,
 - (iv) An adverse effect on the health of any person,

- (v) Impairment of the safety of any person,
 - (vi) Rendering any property or plant or animal life unfit for human use,
 - (vii) Loss of enjoyment of normal use of property, and
 - (viii) Interference with the normal conduct of business;
- b) "Brush Pile Fire" shall mean an Open Air Fire, having a maximum fuel size of 1.8 metres x 1.8 metres x 1.8 metres in height (6' feet x 6' feet x 6' feet), that is set and maintained for the sole purpose of burning piled wood, brush or leaves.
- c) "By-law Enforcement Officer" shall mean a person appointed by Council of the Municipality as a by-law enforcement officer for the Municipality.
- d) "Campfire" shall mean an "Open Air Burn", having a maximum fuel volume of 1 metres x 1 metres x 1 metres height. (3.3 feet x 3.3 feet x 3.3 feet), that is set and maintained solely for the purposes of cooking food, providing warmth or recreational enjoyment and where;
- (i) The site of the fire is bare rock or sand or other non-combustible material.
 - (ii) The fire is at least 4 metres (12' feet) from any flammable material.
 - (iii) The space above the fire is at least 4 metres (12' feet) from vegetation.
 - (iv) The flame length does not exceed 1 metre (3.3 feet) in height and 1 metre (3.3 feet) in diameter.
- e) "Cooking Fire" shall mean any open air fire that is used for the purpose of cooking food.
- f) "Council" shall mean the elected Council of The Corporation of the Municipality of Shuniah;
- g) "Dangerous Condition" means:
- (i) A lack of precipitation which, in the opinion of the Fire Chief or his/her designate, increases the risk of the spread of fire; or
 - (ii) Winds which in the opinion of the Fire Chief or his/her designate increases the risk of spread of fire; or
 - (iii) The issuance, by the Fire Chief, Fire Marshall, or other fire officials in the exercise of their statutory powers, of a fire ban or prohibition against any and all "Open Air Fires"; or
 - (iv) Any other condition declared by the Fire Chief or his/her designate to be a dangerous condition from time to time, which increases the risk of the spread of fire;

- h) "Fire Chief" means the Fire Chief of Shuniah Fire & Emergency Services appointed as such by municipal by-law and includes his or her designate.
- i) "Fire Department" means Shuniah Fire & Emergency Services or any fire department under contract or agreement to provide service to the Municipality of Shuniah.
- j) "Fire Season" means that period from the 1st day of April to the 31st day of October in each year with the time for open air burning allowed only from 5pm till 8am.
- k) "Household Waste" for the purposes of this by-law means combustible material such as plastics, polyethylene terephthalate (PET), paints, oils, solvents, rubber, insulation, batteries, acids, polystyrenes (styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fabrics, diapers, hazardous wastes and other materials as defined in the Environmental Protection Act and all other similar and like materials but shall not include untreated wood and wood fibre products such as unlaminated paper and cardboard and boxboard, brush and leaves;
- l) "Incinerator Fire" shall mean a fire set in a container designed for Incineration purposes and constructed completely of non-combustible material that is placed atop not less than 4 cm. (2 inches) of sand or mineral soil extending not less than 60 cm (24 inches) beyond its perimeter, and having a maximum volume of 202 litres (55 gallon) and an outlet or exhaust opening covered by a screen having a mesh of not more than 7 mm (1/4 inch).
- m) "Municipality" shall mean The Corporation of the Municipality of Shuniah
- n) "Off Season" means that period from the 1st day of November of one year to the 31st day of March the following year with no time restrictions for open air burning.
- o) "Open Air Burning" shall mean the ignition and incineration by fire of combustibles for the purpose of burning grass, clean wood and other combustible materials and includes fires in barrels, drums, incinerators and pits, a cooking fire, campfire or that related to barbeque cooking and heating appliances. But does not include approved wood burning appliances as defined by the Ontario Building Code;
- p) "Ontario Fire Code" shall mean O.Reg. 388/97 made under the Fire Protection and Prevention, S.O. 1997, C.4, as amended.
- q) "Permit" shall mean a permit issued by the Municipality office or Municipality selected agencies, the Fire Chief or his/her designates, signifying permission to set or maintain or allow to be set or maintained an "Open Air Burn" and establishing the conditions under which the permission is granted from the 1st day of January to the 31st day of December in the same year. In the form attached as Schedule "A" hereto;

- r) "Person" shall mean any individual, association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representatives thereof;
- s) "Pit" shall mean an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15 cm (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the limit of the fuel used for a Camping Fire.
- t) "Prohibited Materials" includes "Household Waste", rubber or rubber products, plastic or plastic products, and waste petroleum products and any material or materials which are prohibited by the Environmental Protection Act, R.S.O. 1990, as amended.
- u) "Restricted Fire Zone or RFZ" is an Order made by the ministry of Natural Resources under the Forest Fires Prevention Act that restricts the use of open air fires in a specific area of the province. It is used when the fire hazard is extreme and/or when fire fighting resources are stretched to capacity.
- v) "Total Burn Ban" shall mean absolutely no open burning within the municipality.
- w) "Windrow" means "open air burning" where the size of the material to be burned does not exceed 15m in length, 5m in width and 1.5 m in height and that is set and maintained solely for the purposes of burning wood, tree limbs and branches as part of normal farm practices or for clearing land.

2. GENERAL PROVISIONS

- 2.1. No "Person" being the owner or tenant in possession of lands within the "Municipality" shall conduct "Open Air Burning" on such lands unless a "Permit" has been issued in respect of such "Open Air Burning".
- 2.2. Notwithstanding any provisions herein, no "Person" shall set or maintain a fire;
 - a) In contravention of the "Ontario Fire Code", the Environmental Protection Act, or any other statutory requirements of the Province of Ontario or the Government of Canada;
 - b) Containing "Prohibited Materials";
 - c) In any park owned or operated by the "Municipality" without the written permission of the "Municipality";
 - d) At a distance less than seven and one half (7.5) metres (25 feet) from any building, structure, hedge, fence, vehicular roadway of any kind or nature, or overhead wiring or any property line unless otherwise defined under this section;

- e) At a distance of less than seven and one half (7.5) metres (25 feet) from any object or material which has the potential to ignite unless otherwise defined under this section;
 - f) Unless the "Person" to whom the "Permit" has been issued or such other "Person" as may be designated in the "Permit", is in attendance at the fire in a responsible and supervisory capacity at all times until such fire has been completely extinguished;
 - g) In any outdoor fireplace or any other burning appliance or container unless same complies with the requirements contained within Schedule "A" attached hereto;
 - h) Burn any allowed material without obtaining and having on their person a valid "Open Air Burning Permit" for those types of "Open Air Burning" requiring one;
 - i) Which does not meet the description and distances as defined for a "Campfire" or "Cooking Fire" and without having obtained an "Open Air Burn Permit";
 - j) When a "Total Burn Ban" or Restricted Fire Zone" has been declared and put in place by the "Fire Chief" or his/her designate or the Province of Ontario;
- 2.3. No "Open Air Burning" shall be commenced or maintained when the wind is in such a direction or intensity to cause any or all of the following:
- a) The possible spread of the fire beyond the approved burn site;
 - b) A decrease in the visibility on any highway or roadway;
 - c) Any odour to such an extent or degree so as to cause discomfort to the persons in the immediate areas; and/or
 - d) Excessive smoke or any other "Adverse Effect";
 - e) Any "Dangerous Condition";
- 2.4. No "Open Air Burning" shall be commenced or maintained when weather conditions prevent the ready dispersion of smoke.
- 2.5. No "Permit" shall be required for domestic barbeques used for the purpose of cooking of food on a grill and extinguished immediately upon completion of it's use to cook.
- 2.6. No "Person" shall set fire to, ignite, or otherwise burn any materials in a "Brush Pile Fire" with a combined size of greater than 1.8 metres x 1.8 metres x 1.8 metres (6' wide x 6' long x 6' high) without written approval of the "Fire Chief" or his/her designate.
- 2.7. No "Person" shall set fire or cause to be burned more than one "Open Air Burn" at any one time, without the written approval of the "Fire Chief" or

his/her designate.

- 2.8. No "Person" shall burn any grass, hay, straw or standing material where such "Open Air Burning" or "Windrow" has a leading edge greater than 15 metres (49.5 feet) in length, 5m (16 feet) in width and 1.5 m (5 feet) in height and where sufficient persons and other resources are not available to contain the said fire to a leading edge of 15 metres (49.5 feet).
- 2.9. No "Person" shall indemnify and save harmless The Corporation of the Municipality of Shuniah and its employees from any and all claims, demands, causes of action, costs or damages that the Municipality may suffer, incur or be liable for resulting from the Open Air Burning as set out in this by-law, whether with or without negligence on the part of the Permit Holder, the Permit Holder's employees, directors, contractors and agents.

3. ISSUANCE OF PERMIT

- 3.1. The issuance of a "Permit" may require the prior inspection of the proposed burn site by the "Fire Chief" or his/her designate.
- 3.2. In applying for a "Permit", no "Person" shall furnish false or misleading information.
- 3.3. "Permit(s)" may be obtained from the "Municipality" of Shuniah' office or designated Municipality locations or the "Fire Chief".
- 3.4. No "Permit" shall be considered valid until the "Person" granted the "Permit" has validated the "Permit" by reading the terms and conditions of the permit,
- 3.5. No "Permit" is required for "Open Air Burning" consisting of a "Camp Fire" or "Cooking Fire" as defined and maintained by definition is in an organized campground and only if the campground owner/operator decides it is safe to do so. In these situations, strict campfire rules must be adhered to. Your campground owner/operator will provide you with the rules when campfires are allowed.
- 3.6. It is the responsibility of the "Person" granted a "Permit" to check and monitor burning conditions; this can be done in part by contacting the Fire Department, or the Municipal Office.
- 3.7. It is the responsibility of the person who is burning to have immediately available to them the "Permit" which they were issued for inspection by the "Fire Chief" or his/her designate, "By-law Enforcement" or the Police.
- 3.8. In any prosecution under a provision of this by-law that requires a "Permit", the onus is on the "Person" charged to prove that the "Person" had a "Permit" at the time the offense is alleged to have been committed.

4. FIRE SEASON and OFF SEASON

- 4.1. During the "Fire Season" no "Open Air Burning" shall be allowed between the time of 8:00 am until 5 pm each day seven (7) days a week, between the 1st day of April to the 31st day of October.
- 4.2. During the "Off Season" all burning shall be in compliance with this by-law with the exception of Section 4.1.
- 4.3. The time indicated for no burning does not apply to a "Cooking Fire" as defined..

5. LEVELS OF FIRE BAN OR RESTRICTED FIRE ZONE

- 5.1. Total Burn Ban or Restricted Fire Zone shall mean absolutely no "Open Air Burning" including "Campfires" or "Cooking Fires" or charcoal barbecues, but does not include the use of cooking equipment which is equipped with a shut off mechanism.
- 5.2. Total Burn Ban status, the need for a Total Burn Ban, will be assessed on a daily basis by the Fire Chief or his/her designate consulting with the MNR.
- 5.3. When the "Fire Chief" or his/her designate orders a "Total Burn Ban" be put in place, they will notify the Clerk who will then notify Council and the media.

6. ADMINISTRATION AND ENFORCEMENT

- 6.1. This by-law shall be administered and enforced by the "By-Law Enforcement Officer" and/or the "Fire Chief" or his/her designate of the "Municipality" of Shuniah.
- 6.2. The "Fire Chief" or his/her designate may, at any time, and in the exercise of his or her sole discretion, issue a "Total Burn Ban", effective for a specified period of time, prohibiting the setting of any and all "Open Air Burns" within any area of the "Municipality".
- 6.3. Notwithstanding section 2 of this by-law, the "Fire Chief" or his/her designate may revoke any or all "Permits", or refuse to issue "Permits" where, in the opinion of the "Fire Chief" or his/her designate, that;
 - a) The ability to control the fire is hampered by the existence of a "Dangerous Condition", which exists on or in the proximity of the proposed "Open Air Burning" site.
 - b) A "Person" fails to comply with any part of this by-law.
- 6.4. Any "Person" who fails to comply with the provisions of this By-law, or who fails to properly supervise and maintain a fire, or who fails to extinguish a fire once notification to do so has been given to him by the "Fire Chief" or his/her designate shall, in addition to any penalty provided for herein, maybe liable to the "Municipality" for all expenses incurred for the purposes of controlling and extinguishing of any fire so set or left to

burn and such expenses may be recovered by court action or in a like manner as municipal taxes. The expenses for which the "Person" may be liable to cover the cost of sufficient personnel and equipment required to control a fire, as set out within Schedule "B" hereof.

- 6.5. Such expenses shall be equally chargeable in the event that a deliberately set fire burns out of control, such that the services of Shuniah Fire & Emergency Services are necessary.
- 6.6. Any costs chargeable to any "Person" pursuant to section 6.4 hereof shall be invoiced to the "Person" and paid to the "Municipality" within sixty (60) days of the date of such invoice, failing which the costs may be deemed to be municipal taxes and added by the Clerk of the "Municipality" to the collector's roll and collected in the same manner and with the same priority as municipal taxes.

7. OFFENCES

- 7.1. In addition to any other penalty prescribed by this by-law, any "Person" who contravenes any provision of this by-law is guilty of an offence and is liable to a fine or penalty for each offence established pursuant to the Provincial Offences Act and is set out on Schedule "C" forming and integral part of this by-law.

8. SCHEDULES AND SEVERABILITY

- 8.1. Schedule "A" Permit for "Open Air Burning" attached to this by-law shall form an integral part of this by-law.
- 8.2. Schedule "B" Cost of Fire Department Services, attached to this by-law shall form an integral part of this by-law.
- 8.3. Schedule "C" Set Fines, attached to this by-law shall form an integral part of this by-law upon approval from the Senior Regional Justice of the Ontario Court of Justice.
- 8.4. If any provision, section or word is held to be invalid or illegal, such invalidity or illegality shall not affect or impair any of the remaining provisions, sections or words.
- 8.5. Any "Person" billed for services as a result of violation of the provisions of this by-law may make submissions to "Council" with respect to having the costs invoice reduced or rescinded.
- 8.6. This by-law may be referred to as the "Open Air Burning By-Law".

9. ENACTMENT

This By-law shall come into force and take effect upon Third and Final reading thereof.

10. **REPEALS**

The Council of The Corporation of the MUNICIPALITY OF SHUNIAH hereby repeals By- Law 1953-98.

READ A FIRST AND SECOND TIME THIS DAY OF _____, 2012

Reeve

Clerk

READ A THIRD TIME AND FINALLY PASSED THIS DAY OF _____, 2013

Reeve
