

THE CORPORATION OF THE TOWNSHIP OF STRONG

BY-LAW 2019-027

**Being a by-law Prescribing times for setting Open air fires and
Precautions to be taken**

WHEREAS Section 9 of the Municipal Act, 2001, SO 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that Act or any other Act.

AND WHEREAS Section 10(1) of the Municipal Act, 2001, provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

Section 10(2) of the Municipal Act, 2001, provides that a single-tier municipality may pass By-laws respecting:

- (5) social and environmental well-being of the municipality;
- (6) health, safety and well-being of persons;
- (7) services and things that the municipality considers necessary or desirable for the public;
- (8) protection of persons and property;

AND WHEREAS Section 7.1 (1) of the Fire Protection and Prevention Act 1997, S.O. 1997, c. 4, as amended, authorizes Council to pass a by-law for

- (a) regulating fire prevention, including the prevention of the spreading of fires; and
- (b) regulating the setting of open-air fires, including establishing the time during which open air fires may be set.

AND WHEREAS Section 2.4.4.4. of the Ontario Regulation 213/07 of the Fire Code reads Open-air Burning shall not take place unless it has been approved, or unless the Open-air burning consists of a small, confined fire that is used to cook food on a grill, barbeque or spit, commensurate with the type and quantity of food being cooked, and supervised at all times.

AND WHEREAS Section 128 of the Municipal Act, 2001, S.O. c.25, as amended, local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances. 2001, c. 25, s. 128 (1); 2006, c. 32, Sched. A, s. 68

AND WHEREAS Council considers excessive smoke, smell, airborne sparks or embers to be or could become or cause public nuisances by creating negative health effects on neighboring residents, increasing fire exposure hazards, infringing on the enjoyment of the use of neighboring properties and generating false fire alarms;

AND WHEREAS Section 391 of the Municipal Act, S.O. 2001, as amended, C. 25 authorize a municipality to impose fees or charges on persons,

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board;
- (c) for the use of its property under its control;

AND FURTHER the Municipality desires to protect the people of the Township of Strong and their property from potential hazards.

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

Short title This By-law may be cited as the Open-air Burning By-law

Definitions:

“Adult” means a competent person of 18 years of age

“Applicant” means a person, organization, company or group that makes application to the Fire Chief for permission to set or conduct an open air burning;

“Barbeque” means an appliance or structure designed and intended solely for the cooking of food in the open air, including a hibachi, and any other similar commercially manufactured device designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire pits or campfires;

“Camp fire” means an open air fire no larger than 2 feet by 2 feet for the purpose of cooking food but does not include a manufactured barbeque or a fire for the purpose of entertainment.

“Chief By-Law Enforcement Officer” means the Town’s Chief By-Law Enforcement Officer and/or his or her designate, and includes any other employee of the Town designated by Council to carry out duties specified in this By-law;

“Chief Fire Official” means the Fire Chief and/or his or her designate;

“Dwelling Unit” means a building, structure or suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;

“Extinguished” means no smoke no fire, able to hold hand over coals without getting burned.

“Fire Ban” means a period of time designated by the Chief Fire Official or their designate where a total prohibition on all Open Air Burning is in place and no Open Air Burning of any kind shall take place

“Fire Department” means the Sundridge Strong Fire Department.

“Fire Pit” means a fire burn area specifically designed for open air burning;

“Fireworks” means device consisting of a combination of explosives and combustibles, set off to generate coloured lights, smoke, and noise for amusement.

“Ground Cover” includes but is not limited to, leaves, grasses, weeds, tree needles or wood chips on the ground.

“Non-recreational Open-Air Burning” means any open air burning that is not recreational;

“nuisance” means excessive smoke, smell, airborne sparks or embers that is likely to disturb others.

“Open Air Burning” means the burning of any material outside of a building, including without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is, thereby, open to the air;

“Open Air Burning Device” means any commercially manufactured device for the purpose of containing a recreational fire which is made of a non-combustible material and installed in accordance with the manufacturer’s recommendations;

“Owner” means the registered owner of the land on which open air burning occurs, and includes a trustee acting on behalf of the registered owner, the estate of a registered owner and a person with a leasehold interest in the land;

“Permit” means a permit issued by the Fire Chief or the municipality to set a fire in the Open Air for a specified time period.

“Person” means an individual, business, a partnership or a corporation.

“Recreational Open-Air Burning” means a small, controlled and contained fire for the purpose of cooking, warmth or personal enjoyment;

“Township” means the Corporation of the Township of Strong;

“Yard Waste” includes but is not limited to grass, leaves, trees, brush trimmings, spent flowers, garden plants, weeds, pine needles, hay, straw and sawdust.

SECTION 1 Absolute Prohibition:

- 1.1 No owner shall set a fire in open air or in a yard incinerator if the Sundridge Strong Fire Department or the Ministry of Natural Resources has declared a total fire ban due to atmospheric conditions or local circumstances make such fires hazardous.
- 1.2 No person shall set, maintain, or cause or permit to be maintained flying lanterns within the Township of Strong.
- 1.3 No person shall set off fireworks in an extreme fire rating.
- 1.4 No person shall set off fireworks when a high fire rating without the approval of the fire chief for the Township of Strong.

SECTION 2 General:

- 2.1 All persons setting an open air fire in the Township of Strong shall:
 - a. first obtain a fire permit from the Fire Chief, their designate or from the Municipal Office;
 - i. The Fire Permit shall be in three (3) copies
One copy to be retained by the Applicant
Second copy to be submitted to the Fire Hall as soon after issuance possible
Third Copy retained in the Permit Application Folder for two years plus one day after the issue date.
 - ii. A Fee of Five (\$5.00) shall be paid for the permit, and the said permit shall be in accordance with Schedule “A” attached hereto.
 - iii. Fire Permits shall be granted for a seven (7) days per permit.
 - b. be responsible for any damage their fire causes to property or injury to person(s) occasioned by the said fire;
 - c. be liable for the costs incurred by the Fire Department including personnel, equipment and apparatus necessary and called to extinguish the said fire.

- 2.2 A farmer who intends to set or maintain a fire in the open air on a specific day for the disposal of vegetable matter or vegetation on farm lands which is normal and incidental for farming purposes shall request permission from the Fire Department to cover the period of the proposed fire and will be required to notify the Fire Department for each day of the proposed fire.

SECTION 3 Burning Regulations:

OPEN AIR

- 3.1 No person shall set a fire without first obtaining a Fire Permit from the Fire Chief, their designate or the Municipal office.
- 3.2. No person shall set a fire out of doors in the Township of Strong Two (2) hours **after sunrise** and Two (2) Hours **before sunset** from April 1 to October 31 in each year.
- 3.3 No person shall set a fire within **six (6) meters** of any dwelling and/or structure.
- 3.4 No person shall set any fire out of doors to burn any kitchen garbage, materials made of/or containing rubber, plastic, tar, polystyrene or any material prohibited by the Environmental Protection Act and any regulations hereto.
- 3.5 No person shall set any fire out of doors except in the presence of a competent adult person named on the permit and this person shall be in constant attendance of any burning operation as to prevent same from spreading to or endangering other property.
- 3.6 No person shall set a fire in an area where it may spread due to ground cover in a strong wind.
- 3.7 No person shall set an outside fire which causes inconvenience or irritation to others.
- 3.8 No open air fire shall be set or maintained when the wind is greater than 20 km/h or is in such direction or intensity to as to cause any or all of the following:
- a. Decrease in visibility on any highway or roadway;
 - b. A rapid spread of fire through grass or a brush area.
- 3.9 A Camp Fire or Outdoor Fireplace may be operated without a permit if:
- a. Fire Rating at low-high
 - b. Cooking or Warmth no larger than 2 feet by 2 feet
 - c. Following rules as prescribed in this bylaw
- 3.10 No person shall leave the site of a fire set out of doors in the Township of Strong without fully extinguishing the said fire.
- 3.11 Every person who starts a fire shall ensure that he/she has adequate tools and water to contain the fire.
- 3.12 No person shall have a fire larger than 2 cubic meters at any one time
- 3.13 A fire permit may be cancelled or suspended at any time by the Fire Chief or his designate and immediately upon receiving notice of such cancellation or suspension, the permit holder shall extinguish any fire started under the permit.

- 3.14 The Fire Chief may issue permits authorizing open air fires, at his or her sole discretion.
- 3.15 In issuing any permit, the Fire Chief may impose any additional requirements or exempt any conditions under Parts 3, 5, 6 and 7 of this By-Law as the Fire Chief considers necessary in the interest of public safety, or advisable in the circumstances, or to minimize inconvenience to the general public, or to give effect to the objects of this By-Law.
- 3.16 Notwithstanding any other provisions of this By-Law, the Fire Chief may issue a special fire permit to an applicant and approve any open-air fire subject to the fire being adequately supervised, and to any special conditions, the Fire Chief may direct. Failure to comply with any of the conditions of the special permit will render the permit invalid.

SECTION 4 FIRES TO BE EXTINGUISHED:

- 4.1 The Fire Chief or Designate is authorized to order any person to extinguish any fire or to cause such a fire to be extinguished when there is a breach of any of the provisions of this by-law or where, in their opinion, there is a danger of such fire spreading or otherwise endangering life or property and the person shall comply with any such order.
- 4.2 Where the person does not comply with the directive to extinguish the open fire, the Fire Chief, their fire fighters, fire trucks, and any other fire equipment may enter upon the land where the fire is burning to extinguish the fire.
- 4.3 Upon the Fire Department attending to extinguish the open fire, whether it has since been extinguished or not, the owner will be responsible to pay any and all fees. The fee shall be determined by the Fire Chief based on the actual costs incurred to extinguish the fire.

SECTION 5 PENALTY:

- 5.1 Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33.
- 5.2 Every person who is guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine and the Chief Judge of the Ontario Court (Provincial Division) shall be requested to establish, pursuant to the Provincial Offences Act, set fines in accordance with Schedule "A" of this by-law.

SECTION 6 SEVERABILITY:

- 6.1 If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

SECTION 7 REPEAL:

- 7.1 By-law 2018-17 shall be repealed.

SECTION 8 EFFECTIVE DATE:

8.1 This By-law shall come into force upon final reading and passing thereof.

AS READ A FIRST AND SECOND TIME THIS 22nd DAY OF OCTOBER 2019

AS READ A THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS 22nd DAY OF OCTOBER 2019.

Original Copy Signed

Mayor Kelly Elik

Original Copy Signed

Clerk Administrator Caitlin Haggart

THE CORPORATION OF THE
TOWNSHIP OF STRONG BY-LAW 2019-027
SCHEDULE "A"
SET FINE AMOUNTS
Provincial Offences Act-Part I

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1	Did set a fire without first obtaining a Fire Permit	3.1	\$300.00
2	Did set a fire outdoors outside of permitted time	3.2	\$300.00
3	Did set a fire within six (6) meters of a structure	3.3	\$300.00
4	Burning prohibited material	3.4	\$300.00
5	Person named on permit fail to be in constant attendance	3.5	\$300.00
6	Did set an outside fire which causes inconvenience or irritation to others.	3.7	\$300.00
7	Did set a fire in prohibited wind conditions	3.8	\$300.00
8	Fail to fully extinguishing the said fire.	3.10	\$300.00
9	Fail to have adequate tools and water to contain the fire.	3.11	\$300.00
10	Did have a fire larger than permitted	3.12	\$300.00

Note: The general penalty provision for the offences listed above is section 5 of the bylaw 2019-027, A certified copy of which has been filed.