

THE CORPORATION OF THE TOWNSHIP OF TYENDINAGA

BY-LAW # 08-21

BEING a By-Law to amend By-Law Number 91-06 to prescribe the precautions and conditions under which fires may be set in Open Air.

WHEREAS Section 475(3)(b) of the Municipal Act, S.O, 2001, c25, as amended, authorizes the Council of a Municipality to pass by-laws to prescribe times during which fires may be set in the open air and the precautions to be observed by persons setting out fires;

AND WHEREAS Section 427(3) of the Municipal Act, S.O, 2001, c 25, as amended, authorizes Council's to recover the expense incurred in doing any such matter or thing as required by by-law, in default of of it's being done by the person directed or required to do it in like manner as municipal taxes;

AND WHEREAS Section 475(3)(4) of the Municipal Act, S.O, 2001, c,25 as amended, authorizes the Council of a Municipality to pass by-laws to make such other regulations for preventing fire and spread of fires as the Councils considers necessary;

AND WHEREAS Section 39(1) of the Municipal Act S.O, 2001, c 25, 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 Township of Tyendinaga hereby enacts as follows, in its entirety and including schedules A-E;

DEFINITIONS

For the purpose of this by-law,

- a) " Adverse Effect" means one or more of,
 - i) Impairment of the natural environment for any use that can be made of it.
 - 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) “ Approved Brush Pile “ shall mean an Open Air Fire, having a maximum fuel size of 3 meters 3 meters 1.8 meters in height (10 feet x x10 feet x 6 feet) that is set and maintained for the sole of burning piled wood, brush or leaves,
- c) “Approved Incinerator Fire “shall mean a fire set in a container designed for incineration purposes and constructed completely of non-combustible material that is placed on top of not less than 4cm (2 inches) of sand or mineral soil extending not less than 30cm (12 inches) beyond it’s perimeter, and having a maximum volume of 202 litres and an outlet or exhaust opening covered by a screen having a mesh of not mare than 7mm (¼ inch).
- d) “ Approved Pit “ shall mean an area of ground that has been completely cleared of combustible material and lined with a minimum thickness of 15cm (6 inches) of sand or mineral soil that will extend a minimum of 30cm (12 inches) beyond the limit of the fuel used for a Camping Fire.
- e) “By-law Enforcement Officer “shall mean a person appointed by Council of the Township as a by-law enforcement officer for the Township.
- f) “Council “shall mean the elected Council for the Township of Tyendinaga.
- g) “ Dangerous Condition “ means:
 - i) A lack of precipitation which, in the opinion of the Fire Chief or his or her designate, increases the risk of the spread of fire; or
 - ii) Winds which in the opinion of the Fire Chief or his or her designate increases the risk of spread of fire; or
 - iii) The issuance , by the Fire Chief, Fire Marshal, or other fire officials in the exercise of their statutory powers, of a fire ban or prohibition against any 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) “ Household Waste” for the purpose of this bylaw means combustible material such as plastics, polyethylene terephalate (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;
- i) “Fire Chief “shall mean the Fire Chief of the Township of Tyendinaga Fire Department appointed as such by municipal by-law and includes his/hers designate.

- j) “ Fire Department “ shall mean Township of Tyendinaga Fire Department or any Fire Department under contract or agreement to provide service to the Township of Tyendinaga ;
- k) “ Municipality “ shall mean the Corporation of the Township of Tyendinaga ;
- l) “ 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 a barbecue cooking and heating appliances.
- m) “ Ontario Fire Code “ shall mean O. Reg.388/97 made under the Fire Protection and Prevention S.O. 1997, C.4, as amended;
- n) “ Permit “ shall mean a permit issued by the Township office ,purchased by the applicant , 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. In the form attached as Schedule “A” hereof;
- o) “ Campfire” shall mean an “Open Air Burn” , having a maximum fuel volume of .6 meters x .6 meters x .6 meters in height,(2 feet x 2 feet x 2 feet), that is set and maintained solely for the purpose of cooking food, providing warmth or recreational enjoyment and where;
 - i) The site of the fire is bare rock or other non-combustible material.
 - ii) The fire is at least 2 meters (6 feet) from any flammable material.
 - iii) The space above the fire is at least 3 meters (9.9 feet) from vegetation.
 - iv) The flame length does not exceed 1 meter (3.3 feet) in height and 1 meter (3, 3 feet) in diameter.
- p) “ Cooking Fire” shall mean a fire used for cooking food and contained within an approved containment area or approved outdoor fireplace;
- q) “ Person” shall mean any individual , association, firm, partnership, corporation, agent or trustee and their heirs, executors, or other legal representatives thereof;
- r) “ Prohibited Materials” includes “Household Waste”, rubber or rubber p[products, plastic or plastic p[products, and waste petroleum products and any material or materials prohibited by the Environmental Protection Act R,S.O. 1990 Chapter E 19 as amended;
- s) “Township” shall mean the corporation of the Township of Tyendinaga.

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) Between ½ hour before sunset and ½ hour after sunrise with the exception of a "Campfire";
- e) At a distance less than 23 meters (75 feet) from any building, structure, hedge, fence, vehicular roadway of any kind or nature or overhead wiring or any property line;
- f) At a distance of 23 meters (75 feet) from any object or material which has a potential to ignite;
- g) 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;
- h) In any outdoor fire place or any other burning appliance or container unless same complies with the requirements contained in Schedule "B" attached hereto;
- i) Burn any allowed material without obtaining and having on their person an activated "Open Air Burn Permit" for those types of "Open Air Burns" requiring one;
- j) Which does not meet the definition of a "Campfire" or "Cooking Fire" without having obtained an "Open Air Burn Permit"
- k) When a "Burn Ban" has been declared and put in place by the "Fire Chief" or his/her designate;;

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 a highway or roadway;
- c) Any odour to such an extent or degree so as to cause discomfort to the persons in the immediate area; and or;
- d) Excessive smoke or any other "Adverse Effect";
- e) Any "Dangerous Condition";

2.4 No "Open Air Burning" shall be commenced or maintain when rain or fog is present or weather conditions prevent the ready dispersion of smoke;

2.5 No "Permit" shall be required for domestic barbecues or permanent outdoor fire places 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 a fire to , ignite, or otherwise burn any materials in a "Approved Brush Fire Pile" or window with a combined size of greater than 3.3 meters 3.3 meters x 1.8 meters (10 feet x 10 feet x 6 feet high) without written approval of the "Fire Chief" or his/her designate;
- 2.7 No "Person" shall cause to be burned more than one pile or fire in a container at any one time , without 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" has a leading edge greater than 15 meters (50 feet) and where sufficient persons and other resources are not available to contain the said fire ;

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 Township of Tyendinaga office during normal office hours.
- 3.4 No "Permit" shall be considered activated until the "Person" granted the "Permit" has activated the "Permit" by contacting the Fire Condition Hotline and Permit Activation number. See schedule "C".
- 3.5 The "Permit" for "Open Air Burning" of an "Approved Brush Pile" must be reactivated every time a fire is set out, 24 hours prior to commencing burning and conditions checked on the Fire Condition Hotline immediately prior to the setting out of fire.
- 3.6 The "Permit" for "Open Air Burning of an "Approved Incinerator Fire" must be activated only when the "Permit" is granted.
- 3.7 No "Permit" is required for "Open Air Burning" consisting of a "Camp Fire" or "Cooking Fire" as defined and maintained by definition.
- 3.8 It is the responsibility of the "Person" granted the "Permit" to check and monitor burning conditions; this can be done in part by contacting the Fire Condition Hotline.
- 3.9 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.
- 3.10 The "Fire Chief" may ban any person from receiving a "Permit" if in the opinion of the "Fire Chief" or his/her designate that that person should not be allowed to set or maintain a fire.
- 3.11 In any prosecution under the provisions 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 offence is alleged to have been committed.

4 Fire Season.

4.1 No hay, straw or standing material may be burned, unless approved by the “Fire Chief” or his/her designate.

5. Levels of Fire Ban

5.1 Level One (1) Ban, shall mean a “Fire Ban” which restricts “Open Air Burning” but does not include “Campfires” or “Cooking Fires” as defined in this by-law.

5.2 Total “Burn Ban” shall mean absolutely no “Open Air Burning” including “Campfires” or “Cooking Fires” or charcoal barbecues, but does not include the use of propane or naphtha gas cooking equipment which is equipped with a shutoff mechanism.

5.3 Burn Ban status , the need for a Burn Ban, will be assessed on a daily basis by the “Fire Chief” or his/her designate.

5.4 When the “Fire Chief” or his/her designate orders a “Fire Ban” be put in place ,they will notify the Clerk/Treasurer or his/her designate who will then in turn 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 Township of Tyendinaga.

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 “Fire Ban” effective for a specified period of time, p[rohibiting the setting of any and all “Open Air Fires” within any area of the “Township”

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 the ability to control a fire is hampered by the existence of a “Dangerous Condition”, which exists on or in the proximity of the proposed “Open Air Burning” site.

6.4 Any Person who fails to comply with the provisions of this By-law or fails to properly supervise or maintain a fire, or who fails to extinguish a fire once notification to do so has been given by the “Fire Chief” or his/ her designate including the “By-Law Enforcement Officer” shall, in addition to any penalty provided for herein, be 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 cover the cost of sufficient personnel and equipment required to control a fire, as set out within Schedule “D” hereof. Such expenses shall be equally chargeable in the event that a deliberately set fire burns out of control , such that the services of the Township of Tyendinaga Fire Department and or additional departments are necessary.

6.5 Any costs chargeable to any “Person” pursuant to section 6.4 hereof shall be invoiced to the “Person” and paid to the “Township” 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 collectors 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 included within Schedule “E” forming part of this by-law.

8. SCHEDULES AND SEVERABILITY

8.1 Schedules “A” “B” “C” “D” and “E” attached to this by-law shall also be read with and form part of this by-law.

8.2 The provisions of this by-law are severable. If any provision, section or word is held to be invalid or illegal such as invalidity or illegality shall not effect or impair any of the remaining provisions, sections or words.

8.3 Any “Person” billed for services as a result of a violation of the provisions of this by-law may make submissions to “Council” with respect to having the costs invoiced reduced or rescinded.

8.4 This by-law may be cited as the “Open Air Burning By-Law”

8.5 This By-Law will come into force and effect upon receipt of approval from the Ontario Court of Justice for the Set Fines as set out in Schedule “E” attached hereto.

8.6 The Council of the Corporation of the Township of Tyendinaga hereby repeals By-Law # 91-06 upon receipt of the approval of the Set Fines.

AND THAT this by-law shall be effective as of January 1, 2009 and its short title shall be ‘2009 Burning By-law’;

Passed this 20th day of October, 2008

Margaret Walsh, Reeve

Steve Mercer Clerk-Treasurer

THE CORPORATION OF THE TOWNSHIP OF TYENDINAGA

Schedule "A" to By-Law # 08-21

CONDITIONAL PERMIT FOR "OPEN AIR BURNING"

Issued to: _____

Civic Address: _____

Lot: _____ **Conc:** _____ **Phone:** _____

The Ontario Fire Part 2, Article 2.6.3.4 states;

"Open Air Burning" shall not be permitted unless approved, or unless such burning consists of small, confined fire, supervised at all times, and used to cook food on a grill or barbecue.

CONDITIONS

1. The undersigned agrees to contact the FIRE CONDITION HOTLINE to notify the Township of Tyendinaga Fire Department of their intent to burn by leaving the required information, as outlined (Name, permit #, phone #, location burning and time planning to burn).
2. A "Campfire" or "Cooking Fire" is an "Open Air Fire" of material no greater than .6 metres x .6 metres x .6 metres (2 feet x 2 feet x 2 feet).
3. The undersigned assumes full responsibility when conducting "Open Air Burning".
4. The undersigned agrees to all rules and regulations in the "Open Air Burning By-Law" and which are not limited only to those which appear on the permit.
5. No person shall cause to be burned more than one pile, container, etc. at any one time.
6. No person shall set fire to, ignite, or otherwise cause to burn any permitted materials as outlined in this by-law or in a window or pile with a combined size greater than 3 metres x 3 metres x 1.8 metres (10 feet x 10 feet x 6 feet high).
7. "Open Air Burning" must be supervised by a competent person at all times.
8. Before starting a fire , wind conditions shall be taken into account , burning shall not be done when a wind exists
9. No fires shall be started or maintained when the weather conditions prevent the ready dispersion of smoke.
10. Materials to be burned must NOT include those , which cause excessive smoke , "Household Waste", "Prohibited Materials" e.g. rubber, plastics or other materials prohibited by the Environmental Protection Act, R.S.O. 1990, Chapter E19, as amended.
11. The undersigned, when setting an authorized "Open Air Burn" not only acknowledges responsibility for controlling it, but also for the Fire Department service costs, if the fire gets out of control.
12. Section 475(3) of the Municipal Act, S.O. 2001, c25 as amended, authorizes the recovery of costs related to the violation of these provisions.

Signature of Reg. Owner/ Tenant

Issuing Designate

Date of Issue.

**A FULL AND COMPLETE COPY OF THE BURNING BY-LAW IS AVAILABLE
AT www.tyendinagatownship.com**

THE CORPORATION OF THE TOWNSHIP OF TYENDINAGA

Schedule “B” to By-Law # 08-21

An “Approved Incinerator Fire”:

1. Shall be constructed of non- combustible materials such as stone, brick, ceramic, metal, a steel barrel or wood burning stove.
2. Shall have a wire mesh or expanded sheet metal screen with a maximum mesh size of 7mm(1/4) covering any openings of the container.
3. Shall be placed on a base of mineral soil, bare rock, concrete or non-combustible material of at least 4cm, (2 inches) thickness, extending a minimum of 30-cm (12 inches) beyond the perimeter.
4. Shall be a minimum of 23 metres (75 feet) from any structure, building , road, property line , fence line, hedge or other combustible material.
5. All other conditions outlined in the by-law of which this schedule forms a part also be applicable.

THE CORPORATION OF THE TOWNSHIP OF TYENDINAGA

Schedule “C” for By-Law # 08-21

The Fire Condition and Permit Activation Hotline will serve three purposes.

1) It will be the number that all persons who have applied for a “Permit” will call to activate that afore mentioned “Permit” This activation process will apply to both “Permits” granted for “Open Air Fires” and those granted for “Approved Incinerator Fire”. The “Person” activating the “Permit” will be required to leave the following information:

- i) the name of the “Person” who the “Permit” and property applies to
- ii) the address of where the “Open Air Burning “ will take place for which the “Permit” has been issued.
- iii) The phone number at which the “Person” burning may be contacted.
- iv) The number of the permit

Once this has been done the “Person” to whom the permission has been given will have a legally activated “Permit”.

2) The second purpose will be to notify the Township of Tyendinaga Fire Department of their intention to burn. The “Person” to whom the “Permit” has been granted shall make the notification. The “Person” to whom the “Permit” has been granted will provide the following information:

- i) the name of the “person” who the permit and property applies to
- ii) the address of where the “open Air Fire” will take place for which the “Permit” has been issued.
- iii) the phone number at which the “Person” burning can be contacted
- iv) the number on the “Permit”
- v) when they plan on burning.

3) The third purpose is to have all “Persons” burning under an “Open Permit” contact the hotline, immediately prior to setting out fire to ensure conditions have not changed. All persons “Open Air Burning” in the “Township” should check the hotline to verify burning conditions prior to setting out any fire.

THE CORPORATION OF THE TOWNSHIP OF TYENDINAGA

Schedule “D” to By-Law # 08-21

COST OF FIRE DEPARTMENT SERVICES

The expenses for which the “Person” may be liable, cover the cost of sufficient personnel and equipment required to control a fire, as referred to within Section 6 of the By-Law # and such costs have deemed as being:

\$350.00 per vehicle for the first hour or part thereof

\$ 175 per vehicle for each subsequent half hour or part thereof.

This shall be calculated from the initial dispatch of the fire department or any fire department under contract or agreement, until such time as each vehicle is back in service, for the purpose of this By-Law is defined as when the vehicle is back at the hall and has been replenished with the requirements for the unit to respond to the next activation.

These fees are in addition to any fines or penalties established elsewhere, in accordance with this by-law.

Costs will be invoiced by the “Township” and will be due sixty days from the date of invoice.

THE CORPORATION OF THE TOWNSHIP OF TYENDINAGA

Schedule “E” to By-Law # 08-21

Item	Short For Wording	Offence	Fines
1	Burn Prohibited Material(s)	Sec. 2.2 (b)	\$ 200.00
2	Burn Material(s) in a Municipal Park	Sec. 2.2 (c)	\$ 125.00
3	Burn Material(s) without an activated permit for a Open air Burn	Sec. 2.2 (i)	\$200.00
4	Set out a “Campfire” or “Cooking Fire” that does not meet the defined description	Sec. 2.2 (j)	\$ 125.00
5	Burn material(s) with a size greater than 3 metres x 3 Metres x 1.8 metres (10 feet x 10 feet x 6 feet)	Sec.2.6	\$ 200.00
6	Burn more than one pile at the same time	Sec.2.7	\$ 125.00
7	Burn in more than one incinerator at the same time	Sec. 2.7	\$ 125.00
8	Burn material(s) closer than 23 metres (75 feet) to a fence	Sec. 2.7	\$ 125.00
9	Burn material(s) closer than 23 metres (75 feet) to a Hedge.	Sec. 2.7	\$ 125.00
10	Burn material(s) closer than 23 metres (75 feet) to a building	Sec. 2.7	\$ 125.00
11	Burn material(s) closer than 23 metres (75 feet) to a structure	Sec. 2.7	\$ 125.00
12	Burn material(s) closer than 23 metres (75 feet) to a roadway	Sec. 2.7	\$ 125.00
13	Burn material(s) closer than 213 metres (75 feet) from combustible material(s)	Sec.2.2 (f)	\$ 125.00
14	Burn material(s) closer than 23 metres (75 feet) to overhead wiring.	Sec. 2.2(e)	\$ 125.00
15	Permit holder failed to supervise open fire.	Sec. 2.2 (g)	\$ 100.00
16	Burn material(s) which produce excessive smoke or adverse effects.	Sec.2.3(d)	\$ 125.00
17	Burn material(s) when wind may cause fire to spread.	Sec.2.3(a)	\$ 125.00
18	Burn material(s) when wind may cause decreased visibility on a Highway/Roadway.	Sec.2.3(b)	\$ 125.00
19	Burn material(s) when weather condition prevents dispersion of smoke.	Sec.2.4	4 125.00
20	Burn material(s) when wind may cause odour and smoke to cause discomfort to persons in the vicinity.	Sec.2.3©	\$ 125.00
21	Fail to have a competent adult supervise a campfire.	Sec. 2.2(g)	\$ 200.00
22	Set or maintain an open fire or campfire when a burn ban is in place.	Sec 2.2 (k)	\$500.00