

BY-LAW NUMBER 17 OF 2012
THE CORPORATION OF THE TOWN OF ST. MARYS

Being a by-law to regulate the setting of open fires within the limits of the Town of St. Marys.

WHEREAS Section 7.1(1)(b) of the Fire Protection and Prevention Act, 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;

AND WHEREAS the council of the Corporation of The Town of St. Marys deems it advisable to regulate the setting of fires within the municipality.

NOW THEREFORE the Municipal Council of the Corporation of The Town of St. Marys enacts as follows:

1. In this by-law:

“Barbeque” means a manufactured device or structure with a grill which is designed, intended and used solely for the purpose of cooking food outdoors, and includes a hibachi, but does not include devices or structures designed for personal warmth, fire pits, or Outdoor Fire Containers;

“Cooking Fire” means an Open Fire that is ignited for the purpose of cooking food:

“Council” means the Council of the Corporation of the Town of St. Marys;

“Fire Chief” means the person appointed by Council to act as Fire Chief for the Town of St. Marys as defined in the Fire Protection and Prevention Act, 1997 or designate;

“Noxious Materials” includes tires, plastics, rubber products, drywall, demolition waste, construction waste, paint, animal organic waste, vegetable waste, food waste, biomedical waste, tar, asphalt products, battery boxes, pressure-treated wood, creosote-treated wood, and painted wood;

“Officer” means the Fire Chief or designate, by-law enforcement officers, and Police officers;

“Open Fire” means a fire from which the products of combustion are emitted to the outdoor atmosphere other than through a stack, chimney or flue originating within a building or structure;

“Permit” means a permit issued by the Fire Chief to set an Open Fire for a specified time period;

“Permit Holder” means a person to whom a Permit has been issued by the Fire Chief;

“Suitable Container” means a non-combustible container used to hold a small fire, and includes, but is not limited to, chimneas, steel truck rim buried in the ground, commercially purchased campfire appliance or similar appliance as approved by the Fire Chief;

“Town” means The Corporation of the Town of St Marys.

2. No person shall set, maintain, or permit to be set or maintained, an Open Fire except as authorized under this By-law.

3. This By-law shall not apply to:

(a) a person using a Barbeque to cook food;

(b) a person using a device designed to heat pitch or asphalt;

- (c) a person using welding equipment;
 - (d) the Fire Chief or designate for the purposes of education and training individuals;
 - (e) a person conducting fire extinguisher training who has obtained prior written approval of the Fire Chief or designate.
4. A person may conduct an Open Fire if the person has been issued a permit and if the person complies with all of the conditions set out in Part 5.
5. Every Permit is subject to the conditions in this Part of obtaining and continuing to hold a Permit, all of which shall be performed and observed by the applicant of the holder of the Permit
- (a) the applicant shall pay the Fee as set out in the applicable Fees By-law;
 - (b) the Permit Holder shall produce the Permit on demand to an Officer conducting an inspection of the Open Fire;
 - (c) shall only use a Suitable Container, and shall contain the fire within it at all times;
 - (d) shall locate the Open Fire at least 5 metres from any combustible ground cover;
 - (e) shall not locate the Open Fire under overhanging tree branches;
 - (f) any additional requirements or exemptions the Fire Chief considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances, or to give effect to the objects of this by-law; and
 - (g) the Permit Holder shall indemnify and save harmless The Corporation of the Town of St. Marys and its employees from any and all claims, demands, causes of action, costs or damages that the Town may suffer, incur or be liable for resulting from the Open Fire 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.
6. An application for a permit must be completed on the forms provided by the St. Marys Fire Department
7. A Permit shall only be valid for the calendar year indicated on the Permit.
8. The Fire Chief may refuse to issue a Permit:
- (a) If the proposed Open Fire would contravene this by-law; or
 - (b) If the Permit Holder has previously contravened any Permit conditions or other provisions of this by-law or an Order under this by-law.
9. Every person setting, permitting to be set, maintaining, or permitting to be maintained, an Open Fire authorized under this Part shall comply with the following conditions:
- (a) shall allow, at any reasonable time, an Officer to inspect the location or proposed location of the Open Fire;
 - (b) shall have legal title or authorization from owner of the property at which the Open Fire is to occur;
 - (c) shall only burn commercially produced charcoal, briquettes, or clean, dry, seasoned wood;
 - (d) shall not burn Noxious Materials;

- (e) shall have an effective extinguishing agent of sufficient size and with the capability of extinguishing the Open Fire immediately available for use;
 - (f) shall be at least sixteen (16) years of age and attend, control and supervise the Open Fire at all times;
 - (g) shall completely extinguish the Open Fire before the site is vacated;
 - (h) shall ensure that smoke from any Open Fire or Cooking Fire does not cause any disturbance or complaint from surrounding neighbours;
 - (i) shall be responsible for any damage to property or injury to persons that may result from the said fire;
 - (j) shall be liable for costs incurred by the Town of St. Marys, including personnel, equipment and apparatus necessarily called to investigate, respond or extinguish said fire;
 - (k) shall not permit the burning of leaves within the limits of The Town of St. Marys.
 - (l) shall comply with the provisions of the Environmental Protection Act, R.S.O. 1990, c.E.19, as amended;
 - (m) shall protect adjacent properties from the potential spread of fire.
10. If the Fire Chief is satisfied that this by-law has been contravened, the Fire Chief may make an order requiring the person who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention. An order under Part 11 shall be known as an Order to Discontinue Activity, and such an Order can require a person not to conduct an Open Fire for a certain period of time.
11. An Order to Discontinue Activity shall set out:
- (a) the municipal address of the property on which the contravention occurred;
 - (b) the date of the contravention;
 - (c) the contravention of the by-law;
 - (d) the date by which there must be compliance with the order;
 - (e) the date on which the order expires.
12. The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
13. Should a person default in complying with an Order to Discontinue Activity the fire may be extinguished at the person's expense.
14. The Town may enter on land at any reasonable time for the purpose of extinguishing a fire under section 13.
15. The power of entry under section 14 shall be exercised by an employee, officer or agent of the Town. The person exercising the power of entry must on request display or produce proper identification. The person exercising the power of entry may be accompanied by a person under his or her direction.
16. An Officer, and anyone under the Officer's direction may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this By-law, an Order to Discontinue Activity, or an order under section 431 of the Municipal Act, 2001 is being complied with.

17. No person shall:

- (a) set or maintain an Open Fire, or permit an Open Fire to be set or maintained, contrary to any provision of this by-law.;
- (b) contravene any conditions of a Permit issued under this by-law;
- (c) contravene any conditions of setting or maintaining an Open Fire under this by-law, and;
- (d) contravene an Order to Discontinue Activity.

18. This by-law may be enforced by the Fire Chief or designate and By-Law Enforcement Officer of the Town of St. Marys.

19. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction shall be liable to any penalty as set out in the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, and any amendments thereof.

20. If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
- (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

21. This By-law may be referred to as the Open Air Burning By-law.

This By-law shall take effect upon the final passing thereof.

READ a first and second time this 27th day of March 2012.

READ a third and final time and finally passed this 27th day of March 2012.



Steve Grose, MAYOR



Noah Atlin, ACTING CLERK