

THE CORPORATION OF THE TOWN OF GORE BAY

BY-LAW NO. 2023-03

BEING A BY-LAW TO PROVIDE FOR THE REGULATION OF OPEN-AIR BURNING AND PRECAUTIONS TO BE TAKEN WHILE BURNING

(A BY-LAW TO REPLACE BY-LAW NUMBER 2006-34)

Whereas Section 7.1 of the *Fire Prevention and Protection Act*, S.O. 1997 as amended provides that the Council may pass By-Laws regulating the setting of open-air fires, including establishing the times at which open-air fires may be set; and

Whereas the *Fire Prevention and Protection Act*, S.O. 1997 provides that the Chief Fire Official or Designate is required to approve open-air burning and appropriate fire safety provisions; and

Whereas Section 130 of the *Municipal Act*, S.O. 2001 provides that the Council may regulate matters related to the health, safety, and wellbeing of the inhabitants of the municipality; and

Whereas Section 129 of the *Municipal Act* S.O. 2001 provides that the Council can prohibit and regulate matters that it deems to be a public nuisance; and

Whereas Section 391 of the *Municipal Act* S.O. 2001 provides that municipalities may pass By-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it; and

Whereas Section 446 (1) If a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GORE BAY ENACTS AS FOLLOWS:

1.0 Definitions

- 1.1 **"Approved"** means approved by Chief Fire Official.
- 1.2 **"Balcony"** means a platform projecting from a wall of a multiple level dwelling, surrounded by railing or balustrade.
- 1.3 **"Burn Barrel"** means a steel container similar in construction to a 45-gallon drum and with a volume no greater than that of a 45-gallon drum.
- 1.4 **"Burn Permit"** means a burn permit which is issued in accordance with this By-Law authorizing specific types of burning.
- 1.5 **"By-Law Enforcement Officer"** means a person duly appointed by the Town of Gore Bay to enforce its municipal By-Laws.
- 1.8 **"Chief Fire Official"** means the Fire Chief as defined in the Fire Protection and Prevention Act S.O.1997.
- 1.9 **"Chiminea"** means a non-combustible device made largely from pottery or metal used to hold a small fire with a substantially enclosed hearth and an outlet fitted with a spark arrester or covered by a metal wire mesh with grid openings no larger than 5 millimetres.
- 1.10 **"Council"** means the Council of the Town of Gore Bay.
- 1.11 **"Deck"** means an attached or freestanding combustible platform adjoining a structure.
- 1.12 **"Fire Department"** means the Gore Bay/Gordon Barrie Island Fire Department.

- 1.13 **"Fire Hazard Rating"** means a rating system utilized by the Chief Fire Official or Designate to assess the possibility that any fire is safe or dangerous to light. The rating system is rated as Low, Moderate, High, or Extreme.
- 1.14 **"Fire Season"** means the period from the 1st day of April through to the 31st day of October in each year or as determined by the Ministry of Natural Resources and Forestry (MNR).
- 1.15 **"Incinerator"** means a completely self-contained high temperature furnace used to burn branches, clean wood waste and wood by-products to ash.
- 1.16 **"Municipal Fire Ban"** means a complete ban of all open-air fires which is enacted by the Fire Chief Official or Designate within the Municipality by authority of the Fire Protection and Prevention Act S.O. 1997.
- 1.17 **"Municipality"** means the Municipality of the Town of Gore Bay.
- 1.18 **"Open-Air Fire"** means a fire that is set for the purpose of disposing of clean wood, wood by-products, brush or leaf products that is not greater than 3 metres in diameter and no more than 3 metres high.
- 1.19 **"Occupant(s)"** means a person(s).
- 1.20 **"Permitted Fire"** means a fire set for cooking, enjoyment or warmth that is surrounded by a non-combustible metal fire safety ring or other CSA/ULC certified wood burning device and is not more than 1 metre high and 1 metre wide.
- 1.21 **"Provincial Offences Officer"** means a police officer, a constable appointed to any Act, a municipal law enforcement officer, a by-law enforcement officer, or a person Designated by a Minister of the Crown.
- 1.22 **"Person"** means an individual, association, firm, partnership, or corporation.
- 1.23 **"Prohibited Area"** means all areas within the Town of Gore Bay that are not zoned rural or future development.
- 1.24 **"Registered Owner"** means the person(s) whose name appears on the deed for the property.
- 1.25 **"Restricted Fire Zone"** means an Order made by the Minister of Natural Resources and Forestry, under the Forest Fires Prevention Act, that restricts the use of open fires in a specific area of the province.
- 1.26 **Short Term Rental Accommodation** means the secondary use of a residential Dwelling Unit that offers a place of accommodation or temporary residence, or occupancy by way of concession, permit, lease, license, rental agreement, or similar arrangement for fewer than twenty-eight (28) consecutive calendar days with no on-site management throughout all or part of the year. Short-Term Rental Accommodation uses shall not mean a motel, hotel, bed and breakfast establishment, tourist establishment, tourist cabin establishment, or similar commercial accommodation use. For the purposes of this definition, a secondary use shall mean secondary in terms of time the Dwelling Unit is used as a Short-Term Rental Accommodation.

2.0 General Burning Restrictions for All Fires

- 2.1 No person shall set a fire unless conditions will allow the fire to burn safely.
- 2.2 No person shall set a fire within 8 metres of any structure or combustible object unless otherwise provided herein.
- 2.3 No person shall use a Burn Barrel for the purposes of burning within the Municipality.
- 2.4 No Person shall set a fire during the Fire Season within the Municipality without having obtained a Burn Permit.
- 2.5 No person shall set a fire or burn in an Incinerator household garbage, construction materials, materials made of or containing rubber, plastic, paint, tar, chemical wastes, pressure treated wood, synthetic or man-made materials or any other materials that create excessive smoke or odour.
- 2.6 No Person shall set or continue a fire between the hours of **12:00 a.m. through 6:00 p.m.**
- 2.7 No fire shall be set unless there is a competent adult person to be in constant charge/control of the fire to prevent the fire from spreading or endangering property.
- 2.8 No person shall abandon or leave unattended a fire without extinguishing the fire.
- 2.9 No Person shall set a fire without having a method of controlling or extinguishing fire readily available.
- 2.10 No Person shall set or tend a fire if the weather/wind conditions may cause the following:
 - 2.10.1 A decrease in visibility on any highway.
 - 2.10.2 The rapid spread of fire through grass, brush, forested area or where the property is not intended to be burned.

2.10.3 An adverse impact on other Person(s) or property.

- 2.11** No Person shall set a fire during a Municipal Fire Ban when the Fire Hazard Rating is rated as High or Extreme.
- 2.12** No Person shall set a fire in a Restricted Fire Zone.
- 2.13** No Person shall set a fire to any of the following:
 - 2.13.1.1** A highway or asphalt surface.
 - 2.13.1.2** On any municipal property unless prior arrangements have been made with either the Chief Fire Official, CAO/Clerk or Designate.
- 2.14** A burn permit shall not be issued for any property defined as a Short Term Rental Accommodation as defined in Section 1.26 of this by-law.
- 2.15** No person shall set an open air fire greater than 3 metres in diameter and 3 metres in height.
- 2.16** No person shall set an open air fire that is in violation of the definition of a permitted fire.
- 2.17** Every person shall produce the fire permit upon request by a by-law officer.

3.0 Conditions for Open-Air Burning

- 3.1** An approved Burn Permit shall be obtained that identifies the person authorized to perform the burn and the material to be burned shall be readily available.
- 3.2** The burn must take place in the allotted time frame identified on the Burn Permit.
- 3.3** The burn must be supervised by a responsible competent adult person.
- 3.4** Extinguishing and fire control tools must be readily available.
- 3.5** The material being burned is clean wood, brush, leaves, or discarded wood by-products.
- 3.6** The burn must be done in accordance with the parameters determined by Fire Hazard Rating or Restricted Fire Zone criteria.
- 3.7** The burn does not cause or have an impact on others.
- 3.8** The burn is taking place between 6:00 pm and 12:00 am.
- 3.9** The Chief Fire Official or Designate may, in extenuating circumstances for major projects or ceremonial activities not previously considered, authorize in writing for a person, to burn under conditions other than those listed in Section **3.1** through **3.8** of this By-Law.

4.0 Burning in a Chiminea

- 4.1** Fires set in a Chiminea must meet the following conditions:
 - 4.1.1** the chiminea is not located on a balcony or deck.
 - 4.1.2** the chiminea is not located on a combustible surface.
 - 4.1.3** the chiminea is in good working order.
 - 4.1.4** the chiminea is at least 3 metres from any structure, forest, or woodland.
- 4.2** The person in charge of the Chiminea shall only burn clean dry wood or charcoal in the Chiminea.

5.0 Exemptions

- 5.1** Propane, natural gas and charcoal barbeques or CSA/ULC approved propane or electric heating devices are exempt.
- 5.2** Any fires under the direct supervision of the Municipality Fire Department for training or demonstration purposes are exempt.

6.0 Enforcement and Penalties

- 6.1** This By-Law shall be enforced by the Municipal By-Law Enforcement Officer or Designate.
- 6.2** Any person who contravenes or fails to comply with any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided by the Provincial Offences Act, R.S.O. 1990, chapter P.33 as amended. (See Schedule "B")

- 6.3 No person shall hinder or obstruct or attempt to hinder or obstruct an officer who is exercising a power or performing a duty under this By-Law.
- 6.4 The Municipality reserves the right to recover the costs associated with the extinguishment of an Open-Air Fire or Permitted Fire, which has been set in contravention of this By-law. These costs will be above any penalty set out herein and at a rate set by the Municipality.

7.0 Issuing/Revocation of Burn Permits

- 7.1 Any Person applying for a Burn Permit must do so in person or by email at the Municipal office.
- 72 The person applying must provide identification (with address) and complete all questions on the Burn Permit Application. If the person applying is not the property owner, they must supply a letter of approval signed and dated by the property owner.
- 73 The Burn Permit Application will be reviewed and approved or denied within 3 working days, by the CAO/Clerk or Designate, dependent on any restrictions, the accuracy of information provided or other extenuating circumstances.
- 74 The issued Burn Permit will only be valid for the date(s) indicated on the Permit.
- 75 The Chief Fire Official, CAO/Clerk or Designate has the authority to revoke, suspend, or reinstate a Burn Permit at any time if it is determined that the holder of the Burn Permit is not complying with the provisions of this By-law or if changes occur regarding Fire Hazard Rating, Municipal Fire Ban or Restricted Fire Zone directives.
- 76 Burn Permits are non-transferable.

8.0 Severability

- 8.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part in particular circumstances, the balance of the By-law or its application in other circumstances, shall not be affected and shall continue in full force and effect.

9.0 Administration

- 9.1 This By-law repeals the Town of Gore Bay By-Law 2006-34.
- 9.2 This By-law will come into effect upon the final passing thereof.

READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS 9th DAY OF JANUARY 2023.

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MAYOR

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CLERK

SCHEDULE 'A' TO BY-LAW NO. 2023-03

**THE CORPORATION OF THE TOWN OF GORE BAY
FIRE PERMIT**

Number: _____

Pursuant to the Rules and Regulations set forth by The Corporation of the Town of Gore Bay By-law No. 2023-03 and subject to the terms and conditions herein, this permit is issued to:

Tenant ☐
Owner ☐

Name of the permit holder in full:

to start an approved fire upon the following lands:

Street Address:

Home Number:
Cell Number:

Email:

Town of Gore Bay

Ontario P0P 1H0

for the purpose of:

Open Air Fire ☐ Permitted Fire ☐

from and including the _____ day of _____, _____ to and including the
____ day of _____, _____ subject to the following terms and
conditions:

1. The permittee shall keep the permit at the site of the burning operation conducted under the permit.
2. The person in charge of the burning operation conducted under the permit shall produce and show the permit to any officer whenever requested by that officer.
3. The person shall follow all terms and conditions as outlined in By-law No. 2023-03
4. The permittee certifies that the address on this permit is not a Short Term Rental Accommodation as defined in By-law No. 2023-03

Place of Issue Gore Bay Municipal Office

Date of Issue _____

I have read By-law 2023-03, understand all the terms and conditions set forth within and will abide by them:

Signature of Permit Holder

Fire Permit Issuer

Report Wildfires to the Gore Bay Volunteer Fire Department 9-1-1

THE CORPORATION OF THE TOWN OF GORE BAY

**Manitoulin Part 1
Provincial Offences Act**

**By-law 2023-03
Regulation of Open Air Burning
Schedule “B”**

Item	Short Form Wording	Provision creating or defining offence	Set Fine
1	Set an open air fire greater than 3 metres in diameter and 3 metres in height	2.15	\$200.00
2	Setting a fire that is in violation of the definition of a permitted fire	2.16	\$200.00
3	Set fires in unsafe conditions	2.1	\$200.00
4	Set fire within 8 metres of structures or combustible objects	2.2	\$200.00
5	Set fire without Burn Permit	2.4	\$300.00
6	Burn prohibited materials	2.5	\$200.00
7	Set fire between 12:00 AM - 6:00 PM	2.6	\$200.00
8	Fail to have a competent adult person in charge/control	2.7	\$200.00
9	Leave or abandon unextinguished fire	2.8	\$300.00
10	Fire control tools or extinguishers not readily available	2.9	\$200.00
11	Causing reduced visibility on a highway	2.10.1	\$300.00
12	Causing a fire that spreads	2.10.2	\$300.00
13	Causing a fire that impacts other persons' property adversely	2.10.3	\$300.00
14	Set fire during Municipal Fire Ban	2.11	\$500.00
15	Set fire in Restricted Fire Zone	2.12	\$500.00
16	Set fire on highway or asphalt	2.13.1.1	\$300.00
17	Set unauthorized fire on Municipality property	2.13.1.2	\$300.00
18	Hinder or Obstruct Officer	6.3	\$500.00
19	Failure to produce fire permit upon request	2.17	\$200.00
20	Obtaining a Burn Permit Falsely for a Short Term Rental Property	2.14	\$200.00

Note: The penalty provision for the offences indicated above is section 6.2 of this By-Law No. 2023-03 of which a certified copy has been filed.

Note: Costs associated with extinguishing a fire caused by a contravention of this By-Law will be recovered by the Municipality as per section 6.4.