

**THE CORPORATION OF THE TOWNSHIP OF GILLIES
BY-LAW NO. 2013-725**

Being a by-law to provide for the regulation of Open Air burning of materials, to govern the issuance of Permits, and to repeal and replace By-Law No. 403.

Recitals:

1. Subsection 7.1(1) of the FPPA provides that 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 regulating fire prevention including the prevention of the spreading of fire.
2. Open Air Fires which may escape from control constitute a danger and expense for persons and property within Gillies.
3. Excessive smoke, smell, airborne sparks with ember are or could become or cause negative public nuisances and could create negative health effects on persons, increase fire hazards and infringe upon the use and enjoyment of property.
4. The Council of the Township considers it appropriate to enact a by-law to regulate fires in the Open Air.

ACCORDINGLY the Council of The Corporation of the Township of Gillies enacts as follows:

1. SHORT TITLE

1(1) **Short Title:** This By-law may be cited as the “Open Air Burning By-law”.

2. DEFINITIONS & INTERPRETATION RULES
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2(1) **Definitions:** Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this Subsection. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.

- a) **“Brush Piles”** mean organic material (including: all or parts of branches, limbs, stumps) arranged into stacks or piles.
- b) **“By-law”** means this By-law, including its recitals and schedules, which form integral parts of it. Where the word “By-law” is followed by a number, the term does not refer to this By-law, but to the Township’s by-law matching that number.
- c) **“Council”** means the elected municipal Council of the Township.

- d) **“Conditions”** are circumstances that could increase fire hazards, including: wind velocity, degree of humidity, lack of precipitation, and/or proximity to very flammable material.
- e) **“Cooking Fire”** means an Open Air Fire, which is not contained within a manufactured barbeque or other such manufactured item designed for cooking, which is used for the purpose of cooking food.
- f) **“Field Crop Burning”** means the burning of areas of agricultural land and/or products.
- g) **“Fire Chief”** means the Chief of the Fire Department.
- h) **“Fire Department”** means Gillies Emergency Services.
- i) **“Firefighter”** means the Fire Chief and any other person employed in, or appointed to, the Fire Department, and authorized or assigned to undertake fire protection services in Gillies.
- j) **“Fire Season”** means, subject to a declaration by the Fire Chief under Subsection 3(3) of this By-law, the period from the 1st of April to the 31st day of October in each year.
- k) **“FPPA”** means the *Fire Protection and Prevention Act, 1997, S.O. 1997, c.4.*
- l) **“Gillies”** means the geographic area under the jurisdiction of the Township.
- m) **“Incinerator”** means an enclosed device consisting of non-combustible material and meeting requirements of the Ontario Fire Code.
- n) **“Nuisance”** means activity which interferes with a person’s ability to use and/or enjoy his or her property for ordinarily recognized uses and enjoyments.
- o) **“Occupant”** means any person having control over, or possession of, a building or property under consideration, including any persons in the building or property.
- p) **“Officer”** means any person authorized to enforce the provisions of this By-law, including: any Firefighter, a municipal law enforcement officer appointed as such by Council, members of the Ontario Provincial Police, and enforcement officers with the Ministry of Natural Resources.
- q) **“Ontario Fire Code”** means Ontario Regulation 213/07, passed under the authority of the FPPA.

- r) **“Open Air”** means any open place, yard, field or construction area which is not enclosed by a building or structure.
- s) **“Open Air Fire”** means a fire set or burning in the Open Air, but does not include fireworks.
- t) **“Order”** means an order issued under Subsections 3(8) or 3(9) of this By-law.
- u) **“Outdoor Fireplace”** means a structure, which may or may not be affixed to the ground, erected, placed or marketed for the purposes of containing an Open Air Fire.
- v) **“Owner”** means any registered owner of property.
- w) **“Peat”** means soils with a minimum of thirty (30%) per cent organic matter.
- x) **“Permit”** means a permit issued by the Fire Chief, substantively in the form attached as Schedule “A” to this By-law, to set a fire in the Open Air or to ignite fireworks.
- y) **“Permit Holder”** means a person who possesses and is named on a Permit.
- z) **“Township”** means The Corporation of the Township of Gillies.
- aa) **“Unburnables”** means material that cannot be burned in an Open Air Fire due to its propensity to create Nuisances such as thick smoke, voluminous smoke, noxious chemicals, unpleasant odour, etc. The term includes: construction materials, materials containing rubber, materials containing synthetics, materials containing tar, materials containing plastic, materials containing “styrofoam” or similar substances, and materials that are wet.
- bb) **“Windrows”** means refuse from land clearing, which has been assembled into piles or rows, consisting primarily of any or all of: soil, gravel, trees, roots, stumps, or brush.
- cc) **“Woodland”** means a treed area, woodlot or forested area, including orchards and plantations of Christmas trees.

2(2) **Headings**: The captions, articles and section names and numbers appearing in this By-law are for convenience of reference only and have no effect on its interpretation.

2(3) **Includes**: The words "include", "includes", "including" and "included" are not to be interpreted as restricting or modifying the words or phrases which precede them.

2(4) **Severability**: If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or enforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.

2(5) **Legislative References**: Each reference to Provincial legislation in this By-law that appears without a year in its title is a reference to the Revised Statutes of Ontario, 1990 edition. Each reference to Provincial legislation in this By-law that appears with a year in its title is a reference to the Statutes of Ontario for that year. When legislation, regulations or by-laws are referenced, the reference includes all applicable amendments to the enactment, including successor or replacement enactments.

2(6) **Conflict**: Where this By-law conflicts with any legislation, regulation or other by-law, the more restrictive provision applies.

2(7) **References to Actions**: Where this By-law requires action or prohibits action, the requirement or prohibition applies directly as well as indirectly. Accordingly, a prohibition against lighting a fire is interpreted to include prohibitions against causing, allowing or permitting someone else to light a fire. Likewise, a requirement to obtain a Permit is met if the Permit is obtained by another person expressly on the Permit Holder's behalf.

2(8) **References to People**: Where this By-law refers to a person, the reference includes that person as well as any persons to whom that person has properly and appropriately delegated his or her authority.

2(9) **References to Things**: Where this By-law refers to buildings, properties or other things, the reference includes all or any part of the thing referred to.

3. ADMINISTRATION

3(1) **Administration**: The Fire Chief is responsible for the administration and enforcement of this By-law.

3(2) **Scope**: This By-law applies to any and all fires that burn in the Open Air within Gillies.

3(3) **Fire Season**: The Fire Chief may declare, for the purposes of this By-law, any period between the 1st day of January and the 31st day of March, both inclusive, and the 1st day of November and the 31st day of December, both inclusive, in any year, to be a Fire Season for the purposes of this By-law where Conditions, in his or her sole discretion, warrant.

3(4) **Permits**: An application for a Permit must be completed on the forms provided by the Fire Department. The completed application for a Permit must be submitted to the Municipal Clerk or the Fire Chief, accompanied by the appropriate fees as set out in the Fees and Charges By-law for The Corporation of the Township of Gillies, being By-

law Number 569, as amended. Where a Permit is issued by the Municipal Clerk (or designate), a copy shall be provided to the Fire Chief within seven (7) days of issue. The Permit shall specify the type of Open Air Fire that is authorized.

3(5) **Deemed Permit Conditions:** Every Permit is deemed to carry with it the rules, regulations and conditions set out in this Subsection 3(5).

- a) No Open Air Fire may be set, burned or maintained between six o'clock in the morning (6:00 a.m.) and six o'clock in the evening (6:00 p.m.) on any day.
- b) No Open Air Fire may be set, burned or maintained less than ten (10m) meters from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article.
- c) No Open Air Fire may be set, burned or maintained in Conditions where the wind velocity is greater than fifteen (15 km/hr) kilometers per hour.
- d) Open Air Fires must not exceed the following size limits:
 - i) Field Crop Burning fires may not exceed four hundred (400 m²) square meters (which is approximately one-tenth (1/10th) of an acre) in size;
 - ii) Brush Pile fires may not exceed one point eight (1.8 m) meters in height, one point eight (1.8 m) meters in width and one point eight (1.8 m) meters in length at any given time;
 - iii) Windrow fires may not exceed fifteen (15 m) meters in length, five (5 m) meters in width and one point five (1.5 m) meters in height; and
 - iv) any other Open Air Fire may not exceed one (1m²) square meter in area or one (1m) meter in height.
- e) No more than two (2) Brush Pile fires may be ignited and burning on one property at any given time.
- f) No Open Air Fire may be set, burned or maintained without a suitable means of extinguishment being operable and immediately available.
- g) No Open Air Fire may be set, burned or maintained if it creates a Nuisance.
- h) Open Air Fires must not be left unattended. At all times while burning (from ignition to complete extinguishment), the Open Air Fire must be under the careful watch and attention of at least one (1) responsible and sober adult person.
- i) No Unburnables may be used in an Open Air Fire.
- j) All Open Air burning shall comply with the applicable provisions of the *Environmental Protection Act*, the *FPPA*, the *Forest Fires Prevention Act*, and any applicable regulations passed under the authority of any of those statutes.

- k) The Permit Holder and the Owner of the property on which an Open Air Fire is authorized accept full joint and severable responsibility for the burning operation carried out under the Permit.
- l) A Permit authorizes only the types of Open Air Fires that are specified on its face.

3(6) **Incinerator Permits**: Any Permit issued to allow the operation of an Incinerator is deemed to carry with it the rules, regulations and conditions set out in this Subsection 3(6) in addition to any others applicable under this By-law.

- a) The Incinerator must be located at least five (5m) meters from Woodlands, buildings, structures, property lines, trees, hedges, fences, roadways, overhead wires or combustible material.
- b) The outlet of the Incinerator must be covered with a screen having mesh size of not more than five (5mm) millimeters.

3(7) **Other Conditions as Set out on the Permit**: The Fire Chief may impose any additional requirements or exempt any of the requirements of this By-law as he or she considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or otherwise to give effect to the objects of this By-law.

3(8) **Orders in the Interest of Safety**: Any Officer may order an Owner or Occupier of property to undertake action with respect to a fire on that property, in the interests of public safety. As an example, a Firefighter may order a Permit Holder to extinguish a fire even if the Permit Holder is in compliance with the Permit and with this By-law, if Conditions are such that a danger to health or safety exists.

3(9) **Orders Where Non-Compliance**: Any Officer may order an Owner or Occupier of property to undertake action with respect to a fire on that property, where the fire contravenes any of the provisions of this By-law or any rule, regulation or condition of a Permit.

3(10) **Time Limit**: All Open Air Fire Permits except Permits relating to Fireworks shall be valid during the Fire Season in the calendar year in which they are issued. Permits relating to Fireworks will be valid for the date on which the Fireworks are planned as indicated on the Permit, and for no other dates. A maximum of (2) two dates are permitted on a Fireworks Permit, each of which may specify one (1) alternative "rain date".

3(11) **Suspension/Revocation**: A Permit issued under this By-law may be revoked by the Fire Chief if the Permit Holder fails to comply with the requirements of this By-law, the Permit, or an Order. Conviction of an offence under this By-law or other legislation is not required prior to suspension or revocation of a Permit. The Fire Chief need only

have reasonable belief that the Permit Holder has failed to comply. Suspension or revocation of a Permit is not effective until the Permit Holder has been notified of the suspension or revocation.

3(12) **Notifications**: Where this By-law requires a person to receive notice, he or she is deemed to have received that notice when verbal notice is immediately communicated to him or her, when written notice is immediately handed to him or her, or five (5) days following the mailing of the written notice to him or her at his or her last known address.

3(13) **Immunity**: No Officer is responsible for damages to any person or property that occur as a result of decisions made in administering and enforcing this By-law, unless those decisions resulted from gross negligence or malice.

3(14) **Cost of Suppression**: The Township will hold Permit Holders responsible for its costs, including administrative costs assessed at fifteen (15%) per cent of actual costs, associated with suppressing a fire caused by the Permit Holder as a result of disobeying any requirement of this By-law or any applicable provincial or federal legislation or regulations.

4. CONTROLS AND PROHIBITIONS

4(1) **Prohibition Against Open Air Burning**: During the Fire Season, no person shall start, set, or maintain an Open Air Fire unless he or she has obtained a Permit.

4(2) **Exemption for Cooking Fires**: Paragraphs 3(5)a and 3(5)b and Subsection 4(1) do not apply to a Cooking Fire that is maintained in accordance with the rules set out in this Subsection 4(2).

- a) Cooking Fires may only be maintained between sunrise and eleven o'clock in the evening (11:00 p.m.).
- b) Cooking Fires may not exceed a dimension of zero point three (0.3m) meters by zero point three (0.3m) meters.
- c) Cooking Fires may not exceed a height of zero point three (0.3m) meters.
- d) Cooking Fires must be located at least five (5m) meters from buildings, structures, property lines, trees, hedges, fences, roadways, overhead wires or combustible material.
- e) Cooking Fires must not be maintained during Conditions where the wind velocity is greater than twenty four (24 km/hr) kilometers per hour.
- f) Cooking Fires must not create a Nuisance.

A Cooking Fire which does not meet all of the requirements set out in Paragraphs 4(2)a through 4(2)f, inclusive, does not qualify for the exemptions under this Subsection 4(2).

4(3) **Exemption for Fires Needed for Warmth:** Paragraphs 3(5)a and 3(5)b and Subsection 4(1) do not apply to an Open Air Fire that was lit for purposes of warmth for persons forced by circumstances beyond their control to remain out of doors in inclement weather, provided that fire is maintained in accordance with the rules set out in this Subsection 4(3).

- a) The fire may not exceed a dimension of one (1m) meter by one (1m) meter.
- b) The fire may not exceed a height of one (1m) meter.
- c) The fire must be located at least five (5m) meters from buildings, structures, property lines, trees, hedges, fences, roadways, overhead wires or combustible material.
- d) The fire must not be maintained during Conditions where the wind velocity is greater than fifteen (15 km/hr) kilometers per hour.
- e) The fire must not create a Nuisance.

A fire which does not meet all of the requirements set out in Paragraphs 4(3)a through 4(3)e, inclusive, does not qualify for the exemptions under this Subsection 4(3).

4(4) **Exemption for Outdoor Fireplaces:** Paragraphs 3(5)a and 3(5)b and Subsection 4(1) do not apply to an Outdoor Fireplace that is maintained in accordance with the rules set out in this Subsection 4(4).

- a) Outdoor Fireplaces may only be operated between sunrise and eleven o'clock in the evening (11:00 p.m.).
- b) Outdoor Fireplaces must be located a distance of not less than five (5m) meters from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or combustible article.
- c) An Outdoor Fireplace must be located on a non-combustible surface extending beyond the unit to a dimension equal to the height of the unit.
- d) An Outdoor Fireplace must not create a Nuisance.

An Open Air Fire in an Outdoor Fireplace which does not meet all of the requirements set out in Paragraphs 4(4)a through 4(4)d, inclusive, does not qualify for the exemptions under this Subsection 4(4).

4(5) **Prohibition Regarding Incinerators**: During the Fire Season, no person shall start, set or maintain a fire in an Incinerator unless he or she has obtained a Permit.

4(6) **Fireworks Without Permit**: During the Fire Season, no person shall ignite fireworks unless he or she has obtained a Permit.

4(7) **Residue Near Woodlands**: During the Fire Season, no person shall leave residue from the combustion of fireworks within three hundred (300m) meters of a Woodland.

4(8) **Safety**: No person shall maintain an Open Air Fire in Conditions which create a risk to the safety of persons or property. The Owner or Occupant of the property on which the Open Air Fire burns is responsible for ensuring that the fire burns safely from ignition to extinguishment.

4(9) **Control**: No person shall allow an Open Air Fire to burn out of control. The Owner or Occupant of the property on which the Open Air Fire burns is responsible for ensuring that the fire is under full control from ignition to extinguishment.

4(10) **Supervision**: No person shall allow an Open Air Fire to burn without supervision as required by Paragraph 3(5)h of this By-law. The Owner or Occupant of the property on which the Open Air Fire burns is responsible for ensuring that at least one (1) responsible and sober adult person supervises the fire from ignition to extinguishment.

4(11) **Means to Extinguish**: No person shall maintain an Open Air Fire without ensuring that firefighting equipment in serviceable condition is available to extinguish the fire at any and all times. At a minimum, there should be on hand and readily accessible, twenty (20 l) liters of water and a portable water carrying device, or a garden hose connected to a water source capable of reaching the fire site and one (1) shovel having a pointed blade with a minimum blade of six (6") inches wide and nine (9") inches long.

4(12) **Full Extinguishment**: The Permit Holder is responsible for ensuring that any Open Air Fire is thoroughly and completely extinguished when it is no longer supervised. No person shall be the last to leave the site of an Open Air Fire that has not been completely extinguished.

4(13) **Burn in Accordance with Permit Conditions**: No person who is a Permit Holder shall conduct a fire in circumstances that do not comply with any rules, regulations or conditions that are stipulated on the Permit or within this By-law.

4(14) **Production of Permit**: No Permit Holder shall fail to produce his or her Permit at the request of an Officer. Permits must be accessible to the Permit Holder at all times that it is being acted upon. To meet the requirements of this By-law, the Permit must be produced within one-half (1/2 hr) hour of it having been requested.

4(15) **Compliance with Orders**: No person shall fail to comply with an Order.

4(16) **Interference with Enforcement**: No person shall interfere with the Fire Chief or any Officer who is undertaking an investigation relating to activities controlled or regulated by this By-law.

4(17) **False Information**: No person shall furnish false information to the Township with respect to any information required under this By-law.

5. ENFORCEMENT

5(1) **Enforcement**: All Officers are authorized to enforce this By-law.

5(2) **Entry to Property**: Entry to property for the purposes of enforcement of this By-law is authorized under the FPPA and under By-law Number 2013-722 of the Township.

5(3) **Penalties**: Any person who does not comply with the provisions of this By-law is guilty of an offence and, upon conviction, is liable to the penalties prescribed by the *Provincial Offences Act*.

6. GENERAL PROVISIONS

6(1) **Repeal**: By-law No. 403 of The Corporation of the Township of Gillies and any amendments thereof is repealed.

6(2) **Transition**: Despite Subsection 6(1), By-law No. 403 will be considered to remain in effect for the purposes of any permits issued under its terms and conditions, and for the purposes of any law enforcement activity that had been commenced prior to the effective date of this By-law, relating to its terms and conditions.

6(3) **Effective Date**: This By-law shall come into force and take effect on the date of its passing.

Enacted and passed this 10th day of June, 2013.

THE CORPORATION OF THE TOWNSHIP OF GILLIES

REEVE _____

CLERK _____

Schedule to By-law 2013-725
FIRE/FIREWORKS PERMIT

PLEASE PRINT IN BLOCK LETTERS

Name of Applicant: _____

By signing this form below, the Applicant acknowledges that he or she understands that he or she is personally and fully responsible for complying with all municipal, provincial and federal legal burning requirements, and for fines associated with breach of those rules. In addition, he or she may be held legally responsible for the cost of fire-fighting resulting from fires requiring suppression that arise due to the activities of the Applicant under this Permit.

This Permit, once issued, will authorize (check one only):

Fireworks on: Date One: _____ or rain date: _____
and on Date Two (if desired): _____ or rain date: _____

Open Air Fire
Describe type of fire (i.e. field crop burning, brush fire, campfire, etc.)

Location of Fire: insert emergency number and road name or lot and concession number:

Burning Rules are contained in Gillies By-law No. 2013-725, a copy of which is provided to the Permit Holder with the Issued Permit (acknowledged by the Applicant's signature below) and in Provincial Legislation and Regulations, including: the *Environmental Protection Act*, the *Fire Prevention and Protection Act, 1997* and the *Forest Fires Prevention Act*. These Acts and regulations are available on line at www.e-laws.gov.on.ca. Any additional conditions associated with the issuance of this Permit and binding the Permit Holder are contained on its reverse side.

By signing below, I acknowledge having read and understood the information on this Application/Permit, including, if applicable, the conditions on the reverse side, and having received a copy of Gillies By-law 2013-725, acknowledging my obligation to read it and to follow its terms.

Applicant's Signature: _____

Place of Issue: _____

Date of Issue: _____

Signature of Issuing Officer: _____

A COPY OF BY-LAW 2013-725 MUST BE GIVEN TO THE APPLICANT WITH HIS OR HER ISSUED PERMIT