

Tsartlip First Nation Outdoor Burning By-law

A law to regulate outdoor burning for the purpose of fire protection and safety and for the purpose of control and regulation of related pollution year-round.

Dated July 7, 2025

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TSARTLIP FIRST NATION OUTDOOR BURNING BYLAW**A LAW TO REGULATE OUTDOOR BURNING FOR THE PURPOSE OF FIRE PREVENTION AND SAFETY
AND FOR THE PURPOSE OF CONTROL AND REGULATION OF POLLUTION YEAR ROUND**

Enacted on the 7th day of July, 2025.

WHEREAS Tsartlip First Nation ("**Tsartlip**") has an inherent right to self-government which emanates from our people, culture, and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*.

AND WHEREAS Tsartlip has since time immemorial carried and followed their own W̱SÁNEĆ laws in relation to the use of fire and fire safety;

AND WHEREAS Tsartlip has the power to make bylaws under section 81 of the *Indian Act* to provide for the observance of law and order and prevent disorderly conduct and nuisances;

AND WHEREAS Tsartlip deems it desirable to regulate outdoor burning to provide additional fire safety measures and to protect the environment;

AND WHEREAS Tsartlip requires the right to have well-controlled and attended cultural and ceremonial burning at all times of the year; and

AND WHEREAS Tsartlip has agreed with the District of Central Saanich to provide fire protection services on reserve (the "**Fire Services Agreement**").

THEREFORE BE IT RESOLVED that the Council of Tsartlip, at a duly convened meeting of Council, enacts as follows:

1 TITLE

1.1 This Law may be cited as "Tsartlip Outdoor Burning Bylaw".

2 INTERPRETATION

2.1 In this Bylaw, the following words have the following meanings:

"Agricultural Clearing Waste Fire" means an Outdoor Fire in which waste originating from agricultural activities or from brush-clearing, tree-clearing, or stump removal is burned to facilitate the agricultural use of the land and is larger than 3 metres wide and 2 metres high (e.g. British Columbia Wildfire Service, Category 3 open fire).

"Agricultural Land" means land used for agricultural purposes such as: farming, agri-tourism, horse facilities and parks.

"Campfire" means a fire not exceeding 75 centimetres in diameter and 75 centimetres in height, contained within a fire pit.

"Combustible" means ignitable and liable to produce an explosion or present a flash fire hazard.

"Combustible Property" means property any kind, whether a chattel or a fixture which is Combustible.

"Council" means the elected Chief and Council of Tsartlip.

"Extinguished" means that there is no visible flame, sparks, glowing embers, or Smoke, and that any residue from the fire is broken up and disposed.

"Fire Chief" means the individual appointed by Council as fire chief who heads the fire response services and includes their delegate.

"Fire Investigator" means any individual appointed by Council under section 14.1.

"Fire Officer" means the Fire Chief or any designate, duly appointed from time to time to lawfully act in that capacity and enforce this Bylaw, and includes an enforcement officer or any person appointed by Tsartlip, including any other entity authorized by Tsartlip that provides fire protection services by agreement to Tsartlip.

"Fuel Break" means a barrier or a change in fuel type or condition, or a strip of land that has been modified or cleared.

"Garden Refuse" means any organic garden materials and includes grass clippings, leaves, branches pruned from trees and shrubs and similar garden materials.

"Garden Refuse Fire" means an outdoor fire in which garden refuse is burned.

"Hazardous Material" includes:

- (a) tires;
- (b) polystyrene foam;
- (c) fiberglass or other fibre-reinforced materials;
- (d) asphalt or asphalt products, or tar paper;
- (e) construction materials, shingles, drywall, or demolition waste;
- (f) carpets, furniture, or appliances;
- (g) railway ties;

- (h) treated lumber or wood products;
- (i) manure, animal carcasses or waste from animal slaughtering, unless for specific cultural purposes;
- (j) paint, varnish, used oil, or fuel or lubricant containers;
- (k) batteries or electrical wire; or
- (l) biomedical or other hazardous waste.

“Highway” means Highway 17A.

“Manager” means the senior Tsartlip official responsible for administering this Bylaw and includes a delegate.

“Occupier” means a Person who resides in or has the right of access to any Premises.

“Outdoor Fire” means any fire that burns in the open air and is not completely enclosed in a furnace or other device, including but not limited to: Agricultural Waste Clearing Fires, beach fires, Campfires, domestic incinerators, Garden Refuse Fires, and fires in Outdoor Fireplaces.

“Outdoor Fireplace” means:

- (a) a non-Combustible appliance, covered by a grate and protected by a screen, built for containing a fire not larger than 50 centimetres in diameter and 50 centimetres in height, and includes a chimney and fire ring (examples of acceptable outdoor fireplace appliances are shown on Schedule “A” attached to and forming part of this Bylaw); or
- (b) a permanent structure made of rock, masonry, or metal, enclosed on a minimum of three sides and resting on a non-Combustible surface, which structure provides a reasonable measure of safety from sparks.

“Owner” means, in respect of Private Property, the owner of that Private Property, and includes, for greater certainty, a certificate of possession holder, a residential leaseholder, and a commercial lease holder, as the context requires.

“Person” in addition to its ordinary meaning, includes any association, society, corporation, or partnership, and includes Tsartlip.

“Premises” means land, including land covered by water and Private Property, and any building or structure on the land, whether permanent or portable, together with its appurtenances.

“Private Property” means land on Reserve held or occupied by a Person for residential or commercial purposes, whether via leasehold, life estate, residential tenancy, certificate of possession or other form of tenure.

“Reserves” means:

- (a) South Saanich Indian Reserve No. 1;
- (b) Mayne Island Indian Reserve No 6;
- (c) Senanus Island Indian Reserve No. 10; and
- (d) any lands which have been set apart as “reserves” within the meaning of the *Indian Act* for the use and benefit of Tsartlip, other than Goldstream Indian Reserve No. 13

and **“Reserve”** means any of the Reserves, as the context requires.

“Smoke” means the gases, particle matter and products of combustion emitted into the atmosphere when Combustible material is burned.

3 APPLICATION

3.1 This Bylaw applies to all lands and Premises within the Reserves.

3.2 The restrictions on fires set out in this Bylaw do not apply to:

- (a) smokeless fires fueled by wood pellets, liquid or gaseous fuels, charcoal, or electricity, and burning in either a manufactured appliance or contained within a permanent, non-Combustible structure with a built-in grill; or
- (b) fires started and maintained by the Tsartlip for community or training purposes or to prevent the commencement or spreading of fire; or
- (c) subject to s. 9, cultural and ceremonial fires, and fires used for traditional purposes (e.g., smokehouse).

4 PROHIBITED ACTIVITIES WITHOUT AUTHORIZATION

4.1 No person may start, supervise, maintain, or allow to be maintained an Outdoor Fire except in strict conformity with the requirements of this Bylaw and any other applicable laws.

4.2 No Person shall:

- (a) burn any Hazardous Material in an Outdoor Fire;
- (b) light, ignite, start, allow, or cause to be lighted, ignited or started, any Outdoor Fire except as permitted in this Bylaw;

- (c) light, ignite, start, allow, or cause to be lighted, ignited or started, any Outdoor Fire if Tsartlip has imposed a fire ban or fire restriction for the similar type of fire classification in accordance with section 4.4; or
- (d) light, ignite, start, allow, or cause to be lighted, ignited or started, any Outdoor Fire within three metres of all neighbouring properties, buildings, overhead wiring, Combustible Property, and Highways.

4.3 Every Person who starts, supervises, maintains, or permits an Outdoor Fire shall ensure that:

- (a) the Outdoor Fire is authorized or permitted by the Owner of the land;
- (b) a Fuel Break is maintained around the burn area;
- (c) tools and water to effectively safeguard the fire are available at all times;
- (d) if the fire spreads beyond the burn area or otherwise becomes out of control, it is immediately reported to a Fire Officer and every step is taken to control the spread and extinguish the fire; and
- (e) the Outdoor Fire is conducted in accordance with the requirements of this Bylaw.

4.4 Notwithstanding any other provision in this Bylaw, Tsartlip may, by public notice, issue an order restricting or banning the starting or maintaining of some or all Outdoor Fires within the Reserve.

4.5 Restrictions or bans issued by Tsartlip under section 4.4 will not be applicable to cultural or ceremonial fires.

4.6 Notice of an order under section 4.4 shall be made by at least one of the following posting methods: at the Tsartlip Administration Building in a conspicuous location, on the Tsartlip website and in the Tsartlip newsletter.

5 FIRE NOTIFICATIONS

5.1 Any Person who wishes to start, supervise, maintain, or allow to be started or maintained an Outdoor Fire and who wants to minimize risk of the fire department attending at the site of the Outdoor Fire may utilize the District of Central Saanich fire registration and notification process.

6 INCINERATOR FIRES

6.1 Every Person who starts or maintains an incinerator fire must ensure that:

- (a) the fire is no larger than one metre in diameter and one metre in height with a mesh screen;

- (b) the incinerator is maintained in a condition that provides for the proper combustion of materials, and that it meets and displays a recognized certification marking indicating that it meets the safety requirements of the Canadian Standards Association (CSA), the Underwriting Laboratories of Canada (ULC), or another recognized standard deemed acceptable to the Fire Chief;
- (c) the incinerator is located at least 1.5 metres from any shrubbery, wooden fence, or other combustible material, and is at least 7.5 metres from any building; and
- (d) the incinerator is installed and used in accordance with the manufacturer's instructions.

7 BEACH FIRES

7.1 Every person who starts or maintains a beach fire must ensure the fire:

- (a) is only ignited or maintained with dry wood and used for cooking, warmth, or other traditional purposes;
- (b) is only ignited and maintained on rocks or sand;
- (c) occurs only below the high tide mark;
- (d) is a minimum of three metres from driftwood, slash, grass, or other Combustible materials;
- (e) is no larger than one metre in diameter and one metre in height;
- (f) is completely Extinguished by no later than 10:00 pm each day; and
- (g) is Extinguished only through the use of water, and not by covering the fire with sand or other materials.

8 CAMPFIRES

8.1 Every person who starts or maintains a Campfire must ensure the fire:

- (a) is only ignited or maintained with dry wood and used for cooking or warmth purposes;
- (b) is ignited or maintained only in a non-Combustible pit and in no other place;
- (c) is located a minimum of three metres from any standing trees, stumps, slash, structures, and/or Combustible materials;
- (d) is no larger than 75 centimetres in diameter and 75 centimetres in height;

- (e) is completely Extinguished by no later than 10:00 pm each day; and
- (f) is Extinguished only through the use of water, and not by covering the fire with sand or other materials.

9 CULTURAL AND CEREMONIAL FIRES

- 9.1 Tsartlip will make such fire suppression equipment as it deems advisable available to any Member conducting a cultural or ceremonial fire.

10 AGRICULTURAL CLEARING WASTE FIRES

- 10.1 Every Person who starts or maintains an Agricultural Clearing Waste Fire must ensure that the fire:
- (a) is located at least ten metres from all neighbouring property lines, overhead wiring, Combustible Property and Highways;
 - (b) is started only on the property where the material to be burned originated and with the permission of the Owner or Occupier;
 - (c) is enclosed by a Fuel Break; and
 - (d) is conducted in strict compliance with:
 - (i) the British Columbia *Environmental Management Act*, SBC 2003 c 53;
 - (ii) the *Open Burning Smoke Control Regulations*, BC Reg. 145/93; and
 - (iii) any and all requirements under any applicable Tsartlip Bylaw or other applicable law.

11 GARDEN REFUSE FIRES

- 11.1 Garden Refuse Fires must:
- (a) be ignited or maintained only on Private Property and with the permission of the Owner or Occupier;
 - (b) be confined to the Private Property where the material to be burned originated; and
 - (c) be for agriculture or property maintenance purposes only.
- 11.2 Every Person who starts or maintains a Garden Refuse Fire shall ensure that:
- (a) the garden refuse to be burned is thoroughly dried and fed in such a way that rapid ignition and burning occurs;

- (b) the fire is adequately protected by a Fuel Break;
- (c) no more than two piles of garden refuse are burned at the same time, and those piles are at least ten metres apart;
- (d) a garden hose or immediate source of water is at the fire site at all times the fire is lit and is readily available and capable of rendering the fire Extinguished within five minutes;
- (e) the fire does not exceed three square metres in area or two metres in height;
- (f) the fire is located more than ten metres away from any property lines, buildings, structures, overhead wiring, Combustible Property and Highways; and
- (g) the fire is conducted in accordance with any conditions set out in the requirements of this Bylaw.

12 INSPECTIONS

- 12.1 Subject to section 12.1 and for the purpose of ensuring compliance with this Bylaw, a Fire Officer may enter land or Premises on Reserve, except any Premises occupied solely as a private residence, at any reasonable time and inspect any process, works, or activity that may cause a fire, increase the danger of a fire, or increase the danger to persons.
- 12.2 A Fire Officer may exercise powers under section 12.1 in respect of Premises or a part of Premises occupied solely as a private residence only with the consent of the occupant, if authorized by a warrant, or where the Fire Officer, acting reasonably, determines that an emergency exists and there is an imminent threat to health and safety.
- 12.3 Any Fire Officer exercising powers under section 12.1 in respect of a cultural or ceremonial fire must be accompanied by a Tsartlip employee and must exercise those powers in a way which minimally disrupts any ceremony in progress.
- 12.4 No Person shall obstruct or prevent a Fire Officer from carrying out an inspection under this Bylaw.
- 12.5 A Fire Officer who enters on Reserve pursuant to sections 12.1 or 12.2 may do any of the following:
 - (a) extinguish or cause to be Extinguished any Outdoor Fire that poses a threat to person(s) or property;
 - (b) take away samples of land, articles, substance, or waste;
 - (c) take photographs or make audio or video records; or

(d) make any order directing any person to abate or cease a fire-related nuisance.

12.6 Council may direct an Owner or Occupier of any Premises except for Members' private residences on CP lands, to take steps to abate any fire risk posed by their Premises, including:

(a) removing, destroying, or repairing the building or Premises;

(b) altering the use and occupancy of the Premises;

(c) removing or keeping secure combustible, flammable, explosive or Hazardous Materials or substances on or in the Premises; or

(d) taking other precautions against a fire hazard.

13 PREVENTATIVE EVACUATIONS

13.1 A Fire Chief may evacuate a geographic area or Premises if they determine that an Outdoor Fire presents an urgent threat to Persons or property.

13.2 Persons evacuated from a geographic area or Premises must not return to the geographic area or Premises until the Fire Chief declares it safe to do so.

13.3 A Fire Officer or the Fire Chief may, for the purposes of evacuating Premises, enter onto any Premises but cannot enter a private residence except under the authority of a warrant.

13.4 A Fire Officer may:

(a) Extinguish or cause to be Extinguished any Outdoor Fire that poses a threat to person(s) or property;

(b) make any order directing any person to abate or cease a fire-related nuisance; and

(c) issue an order, fine or ticket under this Bylaw.

14 FIRE INVESTIGATIONS

14.1 Council will appoint a Person or class of Persons as Fire Investigators to conduct Fire Investigations.

14.2 Council may appoint an individual as a Fire Investigator only if the individual meets the applicable standards required by the District of Central Saanich or any other authority providing fire services on Reserve.

14.3 An Owner or Occupier of a Premises must immediately report to the Fire Chief any Outdoor Fire that has damaged or destroyed property and resulted in injury or death.

- 14.4 All Persons must comply with the direction of a Fire Investigator in relation to a Fire Investigation, including:
- (a) providing information and documentation to the Fire Investigator when requested; and
 - (b) providing reasonable access to a geographic area or Premises for the purposes of a fire investigation.

15 OFFENCES

- 15.1 A Person who contravenes any provisions of this Bylaw or permits any act or thing to be done in contravention of this Bylaw or who refuses or omits or neglects to fulfill, observe, carry out or perform any duty imposed by this Bylaw is liable on summary conviction to a fine not exceeding \$1,000 for each offence, or imprisonment for a term not exceeding 30 days or both.
- 15.2 Each day a violation of this Bylaw continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.
- 15.3 Any Person who contravenes any of the provisions of this Bylaw or permits any act or thing to be done in contravention of this Bylaw or who refuses or omits or neglects to fulfill, observe, carry out or perform any duty imposed by this Bylaw Tsartlip is liable to Tsartlip for the costs of fighting any fire which causes damage to lands or property as a result of such contravention, including any property loss, and the same maybe recovered by action in any court of competent jurisdiction at suit of Tsartlip.
- 15.4 Tsartlip may recover any costs under section 15.3 by:
- (a) registering a debt instrument in the Indian Lands Registry against the applicable parcel of Tsartlip land; or
 - (b) using the enforcement measures provided for in the *Tsartlip First Nation Property Taxation Law, 2012*.

16 FORMS

- 16.1 Council may, by resolution, establish, correct, revise or update the terms of any applicable schedules, forms, protocols or other related documentation which complements and supports this Bylaw, and will post notice of same in a conspicuous place in the Tsartlip administration building and make a copy of same available for viewing free of charge at the administrative offices of Tsartlip and available for copying and distribution at a nominal charge.

17 POLICIES AND ORDERS

- 17.1 Council may make policies or orders, under this Bylaw for the following purposes:
- (a) establishing additional procedures for the safe use of and protection from Outdoor Fires;
 - (b) regulating additional classes of Outdoor Fires, or any equipment relating to Outdoor Fires;
 - (c) setting restrictions on when Outdoor Fires can be started or maintained;
 - (d) establishing a procedure for how Outdoor Fires can be banned where circumstances so warrant;
 - (e) prescribing the monetary amount of fines for offences under this Bylaw; and
 - (f) establishing a cost recovery procedure for fines issued under this Bylaw and other costs payable under this Bylaw.

18 SEVERABILITY

- 18.1 If a portion of this Bylaw is held invalid by a court of competent jurisdiction, then the invalid portion must be severed, and the remainder of this Bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause, or phrase.

19 IMMUNITY

- 19.1 No action for damages lies or may be instituted against any Tsartlip present or past Council, a Fire Officer, Fire Chief, Fire Investigator, or any of their members, employees, servants, or agents for:
- (a) anything said or done or omitted to be said or done by that Person in the performance or intended performance of the person's duty or the exercise of the Person's authority; or
 - (b) for any alleged neglect or default in the performance or intended performance of that Person's duty or the exercise of that Person's authority.
- 19.2 Tsartlip, present or past Council, and their members, employees, servants or agents are not liable for any damages or other loss, including economic loss, sustained by any Person, or to the property of any Person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Bylaw or any other Tsartlip Bylaw or Bylaw, or from the neglect or failure, for any reason or in any manner, to enforce this Bylaw or any other Tsartlip Bylaw or Bylaw.

20 AMENDMENTS

- 20.1 Minor amendments to this Bylaw, for the purposes of providing clarity or correcting any inconsistencies may be done by the Manager. Substantive amendments of this Bylaw require Council approval.

THIS LAW IS HEREBY made at a duly convened meeting of the Council of Tsartlip this 7th day of July, 2025.

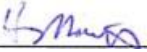
The quorum of Council is five (5) Councillors.



Chief



Councillor

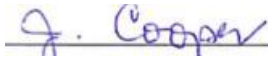


Councillor



Councillor

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SCHEDULE "A"

Examples of Acceptable Outdoor Fireplace Appliances



Chimineas



Fire Rings



Outdoor Fireplace