

**THE CORPORATION OF THE MUNICIPALITY OF FRENCH RIVER**

**BY-LAW 2020-26**

**BEING A BY-LAW TO ESTABLISH OPEN AIR BURNING PROCEDURES,  
PRESCRIBED TIMES FOR SETTING FIRES, PRECAUTIONS TO BE TAKEN, AND  
FOR ISSUING BURNING PERMITS**

**WHEREAS** Section 7.1 of the *Fire Protection and Prevention Act*, S.O, 1997, c.4, stipulates that council of a municipality may pass by-laws, regulating fire prevention, including the prevention of the spreading of fires, regulating the setting of open air fires, including establishing the times during which open air fires may be set.

**AND WHEREAS** Section 391(1) of the *Municipal Act*, S.O. 2001, c. 25, as amended authorizes a municipality to impose fees or charges on persons (a) for services or activities provided or done by or on behalf of it, (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board.

**NOW THEREFORE** the Council for the Corporation of the Municipality of French River hereby enacts as follows:

**1. SHORT TITLE**

1.1. This By-Law shall be known as the “Burning By-Law”.

**2. DEFINITIONS**

2.1. **AGRICULTURAL WASTE** shall include any animal fecal deposits or manure, and animal carcasses.

2.2. **BRUSH** means trees, branches, stumps and roots.

2.3. **CAMPFIRE** means a contained open air fire ignited for cooking or warmth.

2.4. **DISCHARGE** means firing, igniting, exploding, and setting off fireworks.

2.5. **DOMESTIC WASTE** shall include but will not be limited to kitchen waste, food, scraps, cloth, rags, clothing, plastics, and any other materials which contents include any of the aforementioned.

2.6. **FIRE BAN** means a complete or partial ban of any fire as declared by the Fire Chief.

2.7. **FIRE CHIEF** means the Fire Chief as appointed by the Council of Corporation of the Municipality of French River and/or his designate.

- 2.8. FIRECRAKER** means a pyrotechnic that explodes when ignited and does not make any subsequent display or visible effect after the explosion but does not include paper caps containing less than 25/100 of a grain of explosives on average per cap, devices for use of such caps, safety flares or marine rockets.
- 2.9. FIREWORKS** mean the display fireworks, family fireworks, theatrical fireworks, and prohibited fireworks.
- a) Display fireworks** means high-hazard fireworks for recreation that are classified Class 7, Division 2, Subdivision 1 under the *Explosive Act*, as amended. The explosives regulations made thereunder, and includes, but are not limited to, rockets, serpents, shells, bombshells, tourbillion, maroons, large wheels, bouquets, barrages, bombardos, waterfalls, fountains, batteries, illuminations, set pieces and kitchens.
  - b) Family fireworks** means low-hazard fireworks for recreation that are classified under Class 7, Division 2, Subdivision 2 of the *Explosives Act*, as amended, and the explosives regulations made under, and includes but is not limited to, firework showers, fountains, golden rain, lawn lights, pinwheels, roman candles, volcanoes, sparklers and other similar devices, but does not include Christmas crackers, and paper containing not more than 25/100 grain of explosives on average per cap, devices for use with such caps, safety flares or marine rockets.
  - c) Prohibited fireworks** includes but is not limited to firecrackers, cigarette loads or kings, exploding matches, sparkling matches, ammunition for miniature tie clip, cuff link, or keychain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers; throw down and step on torpedoes, and crackling balls; exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky-rockets, fake firecrackers and other trick devices or practical jokes, as included in the list of Prohibited Fireworks as published from time to time under the *Explosives Act*.
  - d) Theatrical fireworks** means an authorized explosive of a class set out in Section 6 of the Explosives Act, Explosives Regulations (C.R.C. c. 599), that is made, manufactured or used to produce a pyrotechnic theatrical effect in connection with a motion picture, theatre or television production or as a performance before a live audience.
- 2.10. FIRE DEPARTMENT** means the Fire Department of the Municipality of French River.
- 2.11. FIRE PIT** means a container, apparatus or physical construct that is capable of controlling the spread of a fire.
- 2.12. FIRE SEASON** means the period of April 1 to October 31 of each year where a Permit is required.
- 2.13. GRASS** means dry, dead, fine herbaceous material made up of different grasses, weeds, vegetation, agricultural crops, leaves.

- 2.14. HIGHWAY** means and includes a common and public highway, street, roadway, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for use by the general public.
- 2.15. HOUSEHOLD HAZARDOUS WASTE** means waste generated from a dwelling and designated by the Municipality as acceptable at a household hazardous waste depot and includes, but is not limited to:
- a) corrosive wastes including batteries, drain cleaners and oven cleaners;
  - b) toxic wastes including pesticides, poisons, pharmaceuticals, and cleaning fluids;
  - c) reactive wastes including pool chemicals, ammonia, bleach, and aerosols;
  - d) flammable wastes including paints, solvents, oils, varnishes, stains and preservatives, wood protector and polish, epoxies, rust removers, fire extinguishers, cements, glues, transmission fluid, brake fluid, engine coolant, motor oil and filters, propane tanks and cylinders, gasoline, kerosene and butane lighters.
- 2.16. INDUSTRIAL WASTE** shall include but not be limited to used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics, explosives, and any part there of or other material which contents include any of the aforementioned.
- 2.17. MUNICIPAL LAW ENFORCEMENT OFFICER** means the Officer appointed by the Council of the Corporation of the Municipality of French River to enforce provisions contained in this or any Municipality By-law.
- 2.18. NUISANCE** shall mean the use of property or course of conduct that interferes with the rights of others by causing damage, inconvenience or annoyance, or something that causes harm, offence, or adverse effect, either to people in general or to a private individual. This may include excessive smoke, odour or sparking.
- 2.19. OFFICER** means a Municipal Law Enforcement Officer, Police Officer, Fire Chief, Fire Prevention Officer, or any other person delegated by the Fire Chief or appointed by By-Law to enforce the provisions of this By-law.
- 2.20. OPEN AIR FIRE** means fire situated outdoors, whether burned in a container or on the ground, and includes a Campfire but does not include a Permanent or Portable Stove.
- 2.21. OWNER** means the registered owner of, or anyone with a leasehold interest in a property.
- 2.22. PERMANENT OR PORTABLE STOVE** means a commercially manufactured permanent or portable device used for cooking or warmth.
- 2.23. PERMIT** means a permit issued by the Municipality in accordance with this By-Law.
- 2.24. PERMITTEE** means any Person who has lawfully issued a Permit by the Municipality.
- 2.25. PERSON** means any individual, corporation, partnership, company, association or party and the heirs, executors, administrators, or other legal representative of such person, to whom the context can apply according to law, shall include any group of persons comprising a society or other organization and shall include the plural wherein the context requires.

**2.26. RESTRICTED FIRE ZONE** means an order made by the Ministry of Natural Resources and Forestry (MNR) under the *Forest Fire Prevention Act*, as amended, that restricts the use of outdoor fires in a specific area of the Province.

**2.27. WINDROWS** mean a pile or row of material made up of stumps, Brush, limbs, earth and rock resulting from land clearing or industrial forest operations using mechanical equipment.

### **3. EXEMPTIONS**

- 3.1.** A fire wholly contained within a Permanent or Portable Stove that follows all the provisions of Section 4 shall not be deemed to be a fire for the purposes of this By-Law.
- 3.2.** A Campfire does not require a Permit, but must follow the restrictions outlined in Section 4.
- 3.3.** The Fire Department shall be exempt from the provision of this By-Law with respect to any fire set for the purposes of education and training.

### **4. PROHIBITIONS**

**4.1.** No person shall:

- a)** set, permit or allow an open air fire to burn during the Fire Season, for any purpose other than a Campfire, unless a Permit is issued by the Municipality under this By-law;
- b)** set, permit or allow a Campfire to burn that exceeds 1 meter (3 feet), in diameter and 1 meter (3 feet) in height;
- c)** use or permit the use of a Permanent or Portable Stove for cooking or warmth in or outside of a Restricted Fire Zone or Fire Ban unless it is;
  - (i.)** at least 1 metre from any naturally occurring flammable material;
  - (ii.)** CSA and/or ULC approved;
  - (iii.)** a designed device that is fueled by portable liquid fuel or gas (natural or propane) that is easily turned off or extinguished by closing a valve or lid;
  - (iv.)** fueled by charcoal.
- d)** set, permit or allow an open air fire to burn between the hours of eight o'clock in the morning (8:00 a.m.) and eight o'clock in the evening (8:00 p.m.) as prescribed in the Permit during the Fire Season;
- e)** set, permit or allow any fire to burn in and/or on any highway, park, walkway, public land, or upon any land owned by the Municipality without having first obtained permission from the Fire Chief;

- f)** set, permit or allow a fire on land which the Person is not the Owner, without the written permission of the Owner;
- g)** burn or permit the burning, or allow the burning of Industrial Waste, Agricultural Waste, Domestic waste, Household Hazardous Waste, petroleum products, rubber, painted lumber, mixed demolition debris, explosives or any part thereof or anything else that will cause excessive smoke or fumes in addition to any other material identified in the regulations contained in the *Environmental Protection Act*, as amended;
- h)** set, permit or allow any fire to burn unless said fire is under constant supervision and that conditions will allow the fire to burn safely and under control from the time of lighting until it is totally extinguished;
- i)** fail to provide sufficient equipment and/or resources at the burn site to extinguish the fire if the fire gets out of control or is causing any adverse effects;
- j)** burn less than 4.5 m (15 ft) measured from the edge of a Fire Pit to any property line, structure, tree, fence, vehicle, over-head wire or any other combustible material;
- k)** burn less than 15 m (50 ft) measured from the edge of a fire greater than 1 cubic m (35 cubic ft) in size to any property line, structure, tree, fence, vehicle, over-head wire or any other combustible material;
- l)** damage any property or cause injury to persons with respect to the setting or permitting any fire to burn;
- m)** set, permit or allow any fire to burn when winds velocity is greater than 10 km per hour or when wind may cause the following unsafe conditions:
  - (i.) a decrease in visibility on any highway, road or navigable channel;
  - (ii.) the rapid spread of any fire through Grass, Brush, forested area or other property that was not intended to be burned.
- n)** set, permit or allow any fire to burn which causes a Nuisance or irritation to others;
- o)** refuse to extinguish any fire (whether permitted or exempt) if directed to do so by the Fire Chief or by an Officer, and until such time as conditions exist, to the satisfaction of the Fire Chief, to allow any fire to continue;
- p)** set, permit or allow any fire to burn during and in accordance with a Restricted Fire Zone;
- q)** set, permit or allow any fire to burn during and in accordance with a with a Fire Ban;
- r)** set, permit or allow a Fire to burn without paper or electronic copy of a Permit at the burn site as set out under said Permit;

- s) fail to produce or show a paper or electronic copy of the Permit to the Fire Chief or to any Officer;
- t) burn or permit the burning of slash and land clearing debris that are not set out in piles or windrows separated by a distance of at least 20 m (66 ft) and in sections not exceeding 15 m or (50 ft) in length;
- u) detonate fireworks or firecrackers during and in accordance to a Fire Ban or a Restricted Fire Zone.

## **5. CANCELLATION OF A PERMIT**

**5.1.** A Permit may be cancelled or suspended during a Fire Ban or a Restricted Fire Zone, or at any time by the Fire Chief or Officer. Immediately upon receiving notice of such cancellation or suspension, the Permittee shall extinguish any fire started under the Permit. Failing to immediately extinguish any fire set or burning under a suspended Permit shall be considered an offence under this By-law.

## **6. APPROVAL FROM THE FIRE CHIEF OR DESIGNATE**

**6.1.** Notwithstanding the provisions of Section 4 or 5, the Fire Chief may, upon application, approve the setting of any fire, on the condition that it may be attended by the Fire Chief.

## **7. PERMIT**

**7.1.** A Person making application for a Permit for a Fire shall:

- a) be at least eighteen (18) years or age;
- b) submit a complete application in the Form established by the Fire Chief (attached to this By-law as Schedule "A")
- c) submit the required Permit fee as prescribed in the Municipality's Fees and Charges By-law, as amended from time to time.

**7.2.** A Permit is valid for the event and period of time in which it is issued for.

**7.3.** A Permit is valid only for the property identified on the Permit.

**7.4.** A Permit is not transferable, non-returnable and non-refundable.

**7.5.** The Fire Chief may:

- a) refuse to issue a Permit where a Person has previously failed to comply with the terms and conditions of a Permit or the provisions of this By-law;
- b) impose any additional terms or conditions that he considers necessary in the interest of public safety;

- c) vary the terms and conditions of a Permit upon conducting an inspection and determining safety is maintained through approved site specific terms and conditions;
- d) revoke a Permit for failing to comply with the terms and conditions of a Permit or the provisions of this By-law;
- e) issue a Permit for a Fire to be set during hours not otherwise permitted by this By-law.

## **8. RECOVERY OF COSTS**

- 8.1.** In addition to any fines or penalties established elsewhere in accordance with this By-law, the Person(s) who set the fire, or allowed it to burn, and/or the Owner if the Owner permitted the fire to be set or the fire to burn, shall be responsible for the costs and expenses incurred by the Fire Department necessary to extinguish any fire set or burning contrary to this By-Law or contrary to any Permit issued under this By-Law by way of a fee or charge, as follows;
- a) fees based on current fire response MTO rates; and
  - b) costs and expenses incurred by the Fire Department and/or in accordance with the Fees and Related Charges By-law.
- 8.2.** All fees and charges payable under this By-law are due and owing to the Municipality within thirty (30) days of the date of the invoice rendered to the Person liable to pay them.
- 8.3.** All overdue accounts shall accrue interest at the rate of 1.25% per month, calculated monthly, for the due date until paid in full.
- 8.4.** The Municipality reserves the right to recover unpaid costs as authorized by this By-law by adding such fees and charges to the tax roll and collecting them in the same manner as municipal taxes in accordance with section 446 of the *Municipal Act*, as amended.

## **9. OFFENCES**

- 9.1.** Every person who contravenes any provision of this By-law is guilty of an offence and may be charged in accordance with the terms of the *Fire Protection and Prevention Act*, as amended, of the Ontario Fire Code, in addition to the requirement to pay the fees set out above; and / or may be charged with an offence under the *Provincial Offences Act* under this By-law.
- 9.2.** Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended
- 9.3.** No person shall hinder or obstruct the Fire Chief or designate or an Officer of the Municipality, appointed under this By-law or appointed to enforce this By-law, from carrying out their duties, nor shall any person obstruct any employee or agent authorized to carry out the work for the Municipality in an order issued hereunder.

## **10. SEVERABILITY**

- 10.1.** Should a Court of competent jurisdiction declare a part or whole of any provision of this By-law invalid or of no force and effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public by ensuring a minimum standard for maintenance and occupancy is maintained.
- 10.2.** Where a provision of this By-law conflicts with the provision of another By-law in force within the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

## **11. ENACTMENT**

- 11.1.** That By-law 2011-21 and all other by-laws inconsistent with this by-law are hereby repealed.
- 11.2.** That this By-law shall come into force and take effect on the day it is passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED  
THIS 20<sup>th</sup> DAY OF MAY, 2020.**