

**TOWNSHIP OF SOUTH FRONTENAC
BY-LAW 2020-54**

BEING A BY-LAW TO REGULATE OPEN AIR BURNING IN THE TOWNSHIP

WHEREAS the Corporation of the Township of South Frontenac has a responsibility to protect life and property from risks of fire;

AND WHEREAS Section 2 of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 outlines a Municipality's responsibility for the provision of Fire Protection Services;

AND WHEREAS Section 7.1 Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 permits a municipality to pass By-laws that regulate fire prevention and the setting of open-air fires within the municipality;

AND WHEREAS Section 391 of the Municipal Act, 2001, S.O. 2001, c.25, provides that despite any Act, a municipality and a local board may pass By-laws imposing fees or charges on any class of person, for services or activities provided or done by or on behalf of it or for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board;

AND WHEREAS Section 398 of the Municipal Act, 2001, S.O. 2001, c.25, permits the Treasurer of a local municipality to add fees and charges imposed by the municipality, upper-tier municipality or local board, respectively, to the tax roll for a property in the local municipality and collect them in the same manner as municipal taxes;

AND WHEREAS Section 429 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended provides that Subject to subsection (4), a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act. 2006, c. 32, Sched. A, s. 184

AND WHEREAS Section 441.1 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended provides that the treasurer of a local municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the Provincial Offences Act to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

NOW THEREFORE the Council of The Corporation of the Township of South Frontenac hereby enacts as follows:

DEFINITIONS

1. In this by-law,

- (a) "Approved Brush Pile Fire" means an Open Air Fire, having a maximum fuel volume of 3 meters x 3 meters, that is set and maintained for the sole purpose of burning piled wood, brush or leaves.
- (b) "Approved Incinerator Fire" means an Open Air Fire set in a container designed for incineration purposes and constructed completely of non-combustible material that is placed atop not less than 4 cm of sand or mineral soil extending not less than 30 cm beyond its perimeter, and having a maximum volume of 202 litres and an outlet or exhaust opening covered by a screen having a mesh of not more than 5 mm.
- (c) "Approved Pit" means an area of ground that has been completely cleared of

- combustible material and lined with a minimum thickness of 15 cm of sand or mineral soil that will extend a minimum of 30 cm beyond the limit of the fuel used for a Camping Fire.
- (d) "Barbeque" means a portable or fixed device designed and intended solely for the cooking of food in the open air but does not include outdoor fireplaces or campfires.
 - (e) "By-law Enforcement Officer" means a person appointed by Council of the Township as a by-law enforcement officer for the Township.
 - (f) "Camping Fire" means a fire, having a maximum fuel volume of .6 meters x .6 meters x .6 meters, that is set and maintained solely for the purposes of cooking food, providing warmth or recreational enjoyment and;
 - i. The site of the fire is bare rock or other non-combustible material.
 - ii. The fire is at least three (3) meters from any flammable material.
 - iii. The space above the one (1) meter area around the fire is at least six (6) meters from vegetation.
 - iv. The fire does not exceed one (1) meter in height and one (1) meter in diameter.
 - (g) "Cooking Fire" means a fire used for cooking food and contained within an approved containment area or an approved outdoor fireplace.
 - (h) "Evaporator" means a device that is an enclosed burning appliance intended to provide a wood or fuel burning fire for the purposes of generating heat to evaporate liquids such as, but not strictly limited to, the production of maple syrup.
 - (i) "Fire Chief" means an officer of the Fire Department appointed as such by municipal by-law and includes a Chief Fire Official.
 - (j) "Fire Department" means South Frontenac Fire and Rescue that serves the Township of South Frontenac.
 - (k) "Flying/Floating Lanterns" means a combustible material warm air floating device which uses an open flame for floatation
 - (l) "FPPA" means the Fire Protection and Prevention Act, S.O. 1997, c4, as amended, and the regulations enacted thereunder as amended from time to time, or any Act or Regulation enacted in substitution therefor
 - (m) "Highway" means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and except as otherwise provided, includes a portion of the highway
 - (n) "Household Waste" means combustible material such as plastics, paints, oils, solvents, rubber, insulation, batteries, acids, polystyrenes (Styrofoam), pressure treated or painted lumber, tires, upholstered furniture, synthetic fibers, diapers and hazardous waste as defined in the Environmental Protection Act and all other similar and like materials
 - (o) "Open Air Fire" means a fire set in the open air for the purpose of burning grass, tree limbs and other combustible material, and includes fires in barrels, drums, incinerators and pits, but does not include a recreational fire as defined in this bylaw.
 - (p) "Ontario Fire Code" means O. Reg. 213/07 made under the Fire Protection and Prevention Act, S.O. 1997, c.4, as amended.
 - (q) "Outdoor fireplace" means a manufactured, noncombustible, enclosed container designed to hold a small fire for decorative purposes and includes, but not strictly limited to, a chiminea or fire bowl
 - (r) "Owner" means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons in the building or property.
 - (s) "Permit" Means an approved document prescribed in this bylaw and issued by the Corporation of the Township of South Frontenac that shall be obtained by an owner of a property and for each separate property owned, related to setting, maintaining, or allowing a fire to be set or maintained, and includes Open Air Burning
 - (t) "Person" includes an association, firm partnership, or corporation.

- (u) "Recreational Fire" means a fire that includes, camping fire, cooking fire, outdoor fireplace, evaporator fire, a fire contained in a barbeque.
- (v) "Smudge" means a controlled and closely supervised Open Air Fire that is set for the purposes of protecting crops from frost or for relieving distress from biting insects in livestock
- (w) "Township" means the Corporation of the Township of South Frontenac.

PROHIBITIONS

2. At any time, no Person shall,

- (a) Set, maintain a fire, or allow a fire to be set or be maintained, including:
 - i. Any unauthorized Open Air Fire, or
 - ii. Any unauthorized Recreational Fire, or
 - iii. Any Recreational Fire or Open Air Fire, in such a manner that interferes with the enjoyment of adjoining lands or jeopardizes the safety of a highway, through the escape of smoke or ash.
 - iv. A Smudge, without first notifying the Fire Chief 48 hours in advance of the date, location, and other details relating to the proposed Smudge and complying with any restrictions or conditions on the setting and maintenance of the Smudge as may be imposed by the Fire Chief in his or her sole discretion.
- (b) Set or maintain a Recreational Fire or an Open Air Fire or allow either to be set or be maintained in contravention of:
 - i. The Ontario Fire Code;
 - ii. The Fire Prevention and Protection Act, S. O. 1997, c.4:
 - iii. The Forest Fires Prevention Act, R.S.O. 1990, c. F.24;
 - iv. The fire safety precautions set forth under Section 3 of this by-law;
 - v. The terms of any ban or prohibition order in connection with Open Air Fires and issued by or on behalf of the Government of Canada, the Government of Ontario, the Fire Chief under authority of this by-law and the FPPA, or any other official acting within the scope of his or her statutory powers
 - vi. or any other statutory requirement of the Province of Ontario or the Government of Canada; or
- (c) At any time, set off, ignite, or allow the use of a Flying/Floating Lantern of any type that operates on the use of any fire or any type of open flame heating source.

SAFETY PRECAUTIONS

- 3. Any person setting, maintaining or permitting the ignition or maintenance of a Recreational Fire or an Open Air Fire shall ensure that the burning is done strictly in accordance with the following fire safety precautions and in addition to obtaining a permit as prescribed in this bylaw:
 - (a) All materials to be burned shall be dry,
 - (b) No person shall burn any:
 - i. Building or structure of any kind or size; or
 - ii. Hay, straw or standing material, unless approved by the Fire Chief or Chief Fire Official; or
 - iii. Petroleum products, plastics, rubber, painted lumber, tires, pesticides, insecticides, herbicides, aerosol cans, fuel tanks, carpeting, mattresses, nylon, Styrofoam or anything else that will cause excessive smoke or fumes; or
 - iv. Material prohibited by the Ministry of the Environment, or
 - v. Any household waste or commercial garbage
 - (c) No Recreational Fire or Open Air Fire shall be set or maintained;

- i. On any public or Township property other than a township landfill site if approved by the Fire Chief or Chief Fire Official;
 - ii. Within ten (10) meters of a Township road, road allowance, or highway; or
 - iii. Within six (6) meters of a building, forest, wooded area, or the nearest abutting property; or
 - iv. Within three (3) meters of any other flammable material; or
 - v. Under or within ten (10) meters of any hydro or telephone line or service.
- (d) A person over the age of 18 shall be in attendance and shall supervise all Recreational Fires and Open Air Fires until they are fully extinguished.
 - (e) Equipment and other resources capable of controlling and quickly extinguishing all Recreational Fire and Open Air Fires shall be maintained at the site of the fire at all times.
 - (f) Hours of burning are restricted to those hours between sunrise and sunset, during the fire season from the 1st day of April to the 31st day of October, except a camping fire or cooking fire in an approved fire pit, barbeque, outdoor fireplace, or a township landfill site.
 - (g) Recreational Fires and Open Air Fires shall not be set in the presence of high winds in excess of 25 km/hr or any other adverse burning conditions.
 - (h) Any person setting or maintaining an Open Air Fire other than a Recreational Fire, shall first notify the Fire Department through the prescribed process of the Open Air Burn Permit System, of his or her name and telephone number and the location of the proposed burning.

LEVELS OF FIRE BAN

- 4.
 - (a) Level One (1) Ban - shall mean a fire ban, which restricts Open Air Fires but does not include Recreational Fire as defined in this by-law.
 - (b) A Total Fire Ban - shall mean absolutely no Recreational Fires and/or Open Air Fires but does not include cooking appliances with a mechanical shutoff, i.e.: propane or naphtha gas cooking equipment.
 - (c) The Chief Fire Official, will assess the need for a Level One (1) or Total Fire Ban on a daily basis
 - (d) When fire bans are ordered by a Chief Fire Official, he or she will advise the CAO and Council as well as the media and other agencies.

ADMINISTRATION AND ENFORCEMENT

- 5. This by-law shall be administered and enforced by a Chief Fire Official, By-law Enforcement Officers, or such other person as Council of the Township of South Frontenac may designate.
- 6. The Chief Fire Official may approve commercial fireworks displays for special occasions during a Level One (1) or Total Ban.
- 7. The Chief Fire Official may, at any time, and in the exercise of his or her sole discretion, issue a fire ban, effective for a specified period of time, prohibiting the setting of any and all Recreational Fires and Open Air Fires within any area of the Township based on the following:
 - (a) A lack of precipitation that, in the opinion of the Chief Fire Official, increases the risk of the spread of fire;
 - (b) Winds that, in the opinion of the Chief Fire Official, increase the risk of the spread of fire;
 - (c) Current MNRF fire indices indicate a HIGH or EXTREME fire hazard and in consultation with Frontenac Provincial Park.
 - (d) The issuance, by a Chief Fire Official, Fire Marshall, or other fire officials in the

- exercise of his or her statutory powers, of a fire ban or prohibition against any and all Recreational Fires and/or Open Air Fires; or
- (e) Any other condition that in the opinion of the Chief Fire Official will increase the risk of the spread of fire.

PERMIT PROVISIONS

8. a) The application for a permit shall be in the form as set out by the Chief Fire Official and shall include:
- i) the applicable fee as set out in Schedule "A" of this bylaw, and
 - ii) permit holder sign-off of acceptance and compliance with this bylaw.
- b) Permits are issued at the discretion of the Chief Fire Official,
- c) A permit must be obtained for any and all burning. This includes all Recreational Fires and Open Air Fires.
- d) Notifications must occur through the permit system for all Open Air Fires but are not required for Recreational Fires.
- e) Prior to granting approval through the prescribed permit process to conduct an Open Air Fire, the Chief Fire Official may give consideration to:
- i) the results of an on-site inspection, if required by the Chief Fire Official; or
 - ii) the size of the proposed fire and type of materials to be burned; or
 - iii) the safety measures and supervision arrangements proposed; or
 - iv) the time of year and the time of day; or
 - v) the type of special event; or
 - vi) any other relevant considerations.
- f) The Chief Fire Official may attach such conditions as deemed appropriate to any permit granted for Recreational Fires or Open Air Fires.
- g) The holder of the permit shall keep the permit or a copy of the permit at the burning site specified in the permit.
- h) Any permit holder who is in violation of this By-law shall have their permit summarily revoked and all fires shall be immediately extinguished.
- i) Despite the existence of a valid burning permit, the Chief Fire Official may suspend, without recourse, any and all burning permits and cause to be extinguished any fire until such conditions as the Chief Fire Official may indicate are met.
- j) The Chief Fire Official may refuse to approve or issue a permit for a fire or an open air fire, if the proposed fire or open air fire would be in contravention of this By-law; if the owner, occupant or permit holder has, in the past, contravened the provisions of this By-law or has not complied with any conditions attached to a permit issued pursuant to this By-law.
- k) The Chief Fire Official may withdraw a permit if, in the Chief Fire Official's opinion, the fire is causing a negative impact, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated or conditions have become unfavorable for a Recreational Fire or an Open Air Fire, conditions attached to the granting of a permit are not being adhered to or any provision of this By-law is being contravened.

INSPECTION POWERS

9. A Chief Fire Official, By-law Enforcement Officer or a Police Officer may at any time inspect any Recreational Fire or Open Air Fire to ensure that the provisions of this by-law have been and are being complied with and the person who has the care and control of such fire shall provide the Chief Fire Official, By-law Enforcement Officer or the Police Officer with free and unobstructed access to the Recreational Fire or Open Air Fire.
10. Upon inspection, the Chief Fire Official, By-law Enforcement Officer or Police

Officer may where there are reasonable and probable grounds that any offence under this by-law has been committed, request any person believed to have committed such offence to provide suitable identification and information.

FEES

11. Where non-compliance and contravention of this bylaw is confirmed and in addition to any fines or penalties established elsewhere in accordance with this by-law, the person or persons responsible for setting or maintaining, or permitting to be set or maintained, a Recreational Fire or an Open Air Fire shall be liable to the Township by way of a fee or charge, as calculated in accordance with Schedule "A" to this by-law, on account of those costs and expenses incurred by the Township in:
 - (a) Investigating and responding to a complaint made to the Township or the Fire Department by any person acting reasonably and in good faith, which complaint results from setting and/or maintenance of a Recreational Fire or an Open Air Fire and, in the opinion of the Chief Fire Official, smoke or emissions from such fire or Open Air Fire were causing or had caused actual discomfort to the complainant; and
 - (b) The dispatching of Fire Department vehicles and fire-fighting personnel for the purpose of extinguishing the Recreational Fire or Open Air Fire where non-compliance or contravention of this bylaw exists.
12. All fees and charges payable under this by-law are due and owing to the Township within thirty (30) days of the date of an invoice rendered to the person liable to pay them.
13. All overdue accounts shall accrue interest at the rate of 1.25% per month (15% per annum), calculated monthly, from the due date until paid in full.
14. If a person who sets or maintains a fire or Open Air Fire contrary to this by-law is not the owner of the property but occupies or is using the property with the owner's consent, the owner of the property shall be liable to pay any fees and charges imposed by this by-law.
15. All fees and charges payable under this by-law constitute a debt of the person liable for payment of them to the Township and, in the case of owners of a property being responsible for payment of the fees and charges, the Township may add the amount owing to the tax roll for the owner(s) real property and collect them in like manner as municipal taxes.
16. The Chief Fire Official has full discretion when applying the fees for non-compliance or contravention of this bylaw outlined in Schedule "A". This includes determining the severity of the non-compliance and contravention and the results of non-compliance and contravention. This may be determined based on the appropriate number of fire department resources required to control, extinguish, and/or mitigate the hazards associated with any Recreational Fire or Open Air Fire.

PENALTIES

17. Every person who contravenes or causes or permits the contravention of any provision of this bylaw is guilty of an offence, pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

GENERAL

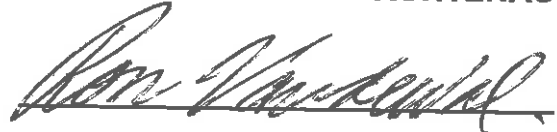
- 18. If any clause or part of this By-law is found to be illegal or beyond the power of the Township's Council to enact, such clause or part shall be deemed to be severable from all other clauses or parts of this By-law.
- 19. This by-law shall be known as the Open Air Burning By-law.
- 20. By-law 2004-107 as amended by 2012-68 is hereby repealed on the 1st day of January 2021.
- 21. This By-law shall come into force on the 1st day of January 2021.

Dated at the Township of South Frontenac this sixth day of October 2020.

Read a first and second time this sixth day of October 2020.

Read a third time and finally passed this sixth day of October 2020.

**THE CORPORATION OF THE
TOWNSHIP OF SOUTH FRONTENAC**



Ron Vandewal, Mayor



Angela Maddocks, Clerk

SCHEDULE 'A' TO BY-LAW NO. 2020-54

Fee to respond to and investigate a fire or Open Air Fire complaint, if it is found that the fire or Open Air Fire is in non-compliance with this bylaw:

- **\$150.00 per response of a Fire Department Officer**

Fee for dispatch of Firefighters and Fire Department Vehicles to investigate, extinguish, or mitigate the hazard associated with a fire or Open Air Fire complaint, if it is found that the fire or Open Air Fire is in non-compliance with this bylaw:

- **The current Ministry of Transportation rate per vehicle for the first hour and billed in 30 minute increments per vehicle for any time thereafter, plus,**
- **The wages of all fire-fighters responding to the call (a minimum of one incident pay rate as prescribed in By-law 2018-56 per firefighter)**

Fee for annual Permit:

- **\$15.00 per permit**

Note: If an owner, owns multiple properties, permits must be obtain for each individual property; however, no additional fees beyond the original \$15.00 for the first permit, will be levied for the additional permits.

Fee for any fire or Open Air Fire without a valid permit or notification through the prescribed Permit Process:

- **\$150.00**

Fee for burning unauthorized materials, materials not approved by this bylaw, household waste, commercial waste, or any other material in the opinion of the Chief Fire Official, that would have a negative impact on the environment and air quality with the Township:

- **\$2000.00 and/or cost of response by firefighters and fire department vehicles (whichever is greater)**

Fee for making a complaint about an Open Air Burn that is false, frivolous, or vexatious in nature:

- **\$150.00**