

**THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC
BY-LAW NO. 2012-68**

A BY-LAW TO AMEND BY-LAW 2004-107 TO REGULATE OPEN AIR BURNING

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

AND WHEREAS section 210, paragraph 35 of the Municipal Act authorizes Council to pass by-laws prescribing for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting fires;

AND WHEREAS section 210, paragraph 49 of the Municipal Act authorized Council to pass by-laws for making such regulations for preventing fires and the spread of fires as Council considers necessary;

AND WHEREAS section 220.1 of the Municipal Act authorizes Council to pass by-laws providing for the imposition and collection of fees or charges for services or activities provided by the municipality;

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 metres x 3 metres (10 feet x 10 feet), that is set and maintained for the sole purpose of burning piled wood, brush or leaves.
 - (b) "Approved Incinerator Fire" means a 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 (2 inches) of sand or mineral soil extending not less than 30 cm (12 inches) 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 (6 inches) of sand or mineral soil that will extend a minimum of 30 cm (12 inches) beyond the limit of the fuel used for a Camping Fire.
 - (d) "By-law Enforcement Officer" means a person appointed by Council of the Township as a by-law enforcement officer for the Township.
 - (e) "Camping Fire" means an Open Air Fire, having a maximum fuel volume of .6 metres x .6 metres x .6 metres (2 feet x 2 feet x 2 feet), 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 two metres from any flammable material.
 - iii. The space above the one metre area around the fire is at least 3 metres (10 feet) from vegetation.
 - iv. The fire does not exceed one metre in height and one metre in diameter.
 - (f) "Cooking Fire" means a fire used for cooking food and contained within an approved containment area or approved outdoor fireplace.
 - (g) "Fire Chief" means an officer of the Fire Department appointed as such by municipal by-law and includes his or her designate.
 - (h) "Fire Department" means South Frontenac Fire and Rescue with stations located in each of the former Townships of Bedford, Storrington, Loughborough and Portland.

- (i) "Fire Season" means the period from the 1st day of April to the 31st day of October in each year.
- (j) "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 cooking fire or campfire.
- (k) "Ontario Fire Code" means O. Reg. 388/97 made under the Fire Protection and Prevention, S.O. 1997, c.4, as amended.
- (l) "Person" includes an association, firm partnership, or corporation.
- (m) "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.
- (n) "Township" means the Corporation of the Township of South Frontenac.

PROHIBITIONS

2. During the Fire Season, no Person shall:

- (a) At any time, set or maintain a fire or allow a fire to be set or be maintained:
 - i. Any Open Air Fire that is not an Approved Incinerator Fire, a Camping Fire, a Cooking Fire;
 - ii Any Approved Brush Pile Fire without first obtaining permission from the Fire Department; or
 - iii a Smudge, without first notifying the Fire Chief 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 fire or allow a fire to be set or be maintained an Open Air Fire:

In contravention of:

- (A) The Ontario Fire Code;
- (B) The Fire Prevention and Protection Act, S. O. 1997, c.4;
- (C) The Forest Fires Prevention Act, R.S.O. 1990, c. F.24;
- (D) The fire safety precautions set forth under Section 3 of this by-law;
- (E) 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, or any other official acting within the scope of his or her statutory powers
- (F) or any other statutory requirement of the Province of Ontario or the Government of Canada; or
- (ii) In such a manner that an actual interference with the enjoyment of adjoining lands results, or the safe condition of adjacent highways is jeopardized through the escape of smoke and or ash.

SAFETY PRECAUTIONS

- 3. Any person setting, maintaining or permitting the ignition or maintenance of an Open Air Fire during the Fire Season shall ensure that the burning is done strictly in accordance with the following fire safety precautions:
 - (a) All materials to be burned shall be dry.
 - (b) No person shall burn any:

- (i) Building or structure of any kind or size;
 - (ii) Hay, straw or standing material, unless approved by the Fire Chief or designee;
 - (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.
- (c) No Open Air Fire shall be set or maintained;
- (i) On any public or Township property other than a township landfill site;
 - (ii) Within 8 meters of a Township road or road allowance;
 - (iii) Within 6 metres (20 feet) of a building, forest, wooded area, or the nearest abutting property;
 - (iv) Within 2 metres of any other flammable material; or
 - (v) Under or within 10 metres of any hydro or telephone line or service.
- (d) A person over the age of 18 shall be in attendance and shall supervise all Open Air Fires until they are fully extinguished.
- (e) Equipment and other resources capable of controlling and quickly extinguishing 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 first day of April to the 31st day of October, except a camping fire or cooking fire in an approved fire pit, or a township landfill site.
- (g) Between November 1st to March 31st, daylight burning only during daylight hours and must be extinguished prior to sunset except campfires & cooking fires.
- (h) Open Air Fires shall not be set in the presence of high winds or any other adverse burning conditions.
- (i) Any person setting or maintaining an Open Air Fire other than an Approved Brush Pile Fire, Approved Incinerator Fire, Camping Fire, or Cooking Fire shall first notify the Fire Department of his or her name and telephone number and the location of the proposed burning.

4. LEVELS OF FIRE BAN

- (a) Level One (1) Ban - shall mean a fire ban, which restricts open air burning, including fireworks but does not include campfires or cooking fires as defined in this by-law.
- (b) A Total Fire Ban - shall mean absolutely no open air burning including campfires or cooking fires or charcoal barbecues, and fireworks but does not include cooking appliances with a mechanical shutoff, ie: propane or naphtha gas cooking equipment.
- (c) The Fire Chief and Deputy Fire Chiefs will assess the need for a Level One (1) or Total Fire Ban on a daily basis
- (d) When fire bans are ordered by, the Fire Chief or designee, 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 the Fire Chief, By-law Enforcement Officers, or such other person as Council of the Township may designate.
- 6. The Fire Chief or Council can approve commercial fireworks displays for special occasions during a Level One (1) or Total Ban.
- 7. The Fire Chief 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 Open Air Fires within any area of the Township based on the following;

- (a) A lack of precipitation that, in the opinion of the Fire Chief, increases the risk of the spread of fire;
- (b) Winds that, in the opinion of the Fire Chief, increase the risk of the spread of fire;
- (c) Current MNR fire indices and in consultation with Frontenac Provincial Park.
- (d) The issuance, by the Fire Chief, 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 Open Air Fires; or
- (e) Any other condition that in the opinion of the Fire Chief will increase the risk of the spread of fire.

INSPECTION POWERS

8. A Fire Chief, By-law Enforcement Officer or a Police Officer may at any time inspect any 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 Fire Chief, By-law Enforcement Officer or the Police Officer with free and unobstructed access to the Open Air Fire.
9. Upon inspection under section 7 above, the Fire Chief, By-law Enforcement Officer or Police Officer:
 - (a) 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

10. 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, 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 the Open Air Fire and, in the opinion of the Fire Chief or the Fire Chief's designate, smoke or emissions from such 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 Open Air Fire.
11. 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.
12. 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.
13. If a person who sets or maintains an Open Air Fire contrary to this by-law is not the owner of the property but occupies or is using the property with the owners consent, the owner and the person conducting the open air burning shall be jointly and severally liable to pay any fees and charges imposed by this by-law.
14. 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.

PENALTIES

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

GENERAL

- 16. 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.
- 17. This by-law shall be known as the Open Air Burning By-law.
- 18. By-law 2004-107 is hereby repealed.
- 19. This by-law shall come into force on the day it is passed.

Dated at the Township of South Frontenac this 20th day of November 2012.

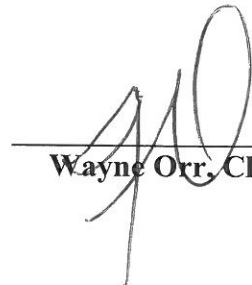
Read a first and second time this 20th day of November 2012.

Read a third time and finally passed this 20th day of November 2012.

**The Corporation of the
Township of South Frontenac**



Gary Davison, Mayor



Wayne Orr, Clerk-Administrator

SCHEDULE 'A'

TO

BY-LAW NO. 2004-107

**Fee to respond to and investigate open air
Burning complaint**

\$75.00 per response

**Fee for dispatch of Fire-fighters and Fire
Department Vehicles**

**\$410.00 per vehicle for the first
hour and \$205.00 per each half
hour thereafter per vehicle, plus
the wages of all fire-fighters
responding to the call (a minimum
of one hour per fire-fighter)**