

# THE CORPORATION OF THE TOWNSHIP OF CENTRAL FRONTENAC

## BY-LAW No. 2021-21

### BEING A BY-LAW IDENTIFIED AS THE BURN BY-LAW

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**WHEREAS** pursuant to Section 8 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** Section 11(2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws for the health, safety and well-being of persons;

**AND WHEREAS** the Council of the Township of Central Frontenac deems it necessary to enact this By-law to protect the health, safety and well-being of the residents of the Township;

**AND WHEREAS** pursuant to Section 7.1 of the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c.4, as amended, a Municipality may regulate the setting of open air fires, including establishing the times during which open air fires may be set;

**AND WHEREAS** the *Forest Fires Prevention Act*, R.S.O. 1990, c.F.24 and O.Reg. 207.96 provide rules for outdoor burning within the Fire Regions;

**AND WHEREAS** pursuant to Sections 425, 429 and 434.1 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, a municipality may establish offences and fines for the contravention of any by-law, and may establish administrative monetary penalties for any offence;

**NOW THEREFORE** under the authority of the Municipal Act, 2001 and the Fire Protection and Prevention Act the Council of the Corporation of the Township of Central Frontenac hereby enacts as follows:

#### APPLICATION

This by-law applies to all types of open air burning, including campfires, incinerators, and brush burning. It does not apply to the operation of outdoor wood furnaces.

#### DEFINITIONS

##### Approved Fire Pit

- a) A pit dug into the ground or made from stones, masonry, steel or other fire resistant material used for the purposes of containing a recreational fire of which the interior dimensions shall be no larger than one meter by one meter (3 feet by 3 feet) and;
- b) Above-ground pre-manufactured chimeneas and other like receptacles designed and constructed for the purposes of containing a small recreational fire.

**Brush/yard waste** means a pile of leaves, boughs, brush or other combustible yard waste is to be less than 2m (6 ft.) in diameter and less than 2m (6 ft.) in height.

**Campfire** means a small open air fire surrounded by an elevated non-combustible perimeter, measuring no more one meter by one meter (3 feet by 3 feet)

**Chief Fire Official** means the appointed Fire Chief of the Township under provisions of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4 as amended, for any or all Fire Department catchment areas as designated by Council, or his or her designate

**Competent person** means someone that is at least 18 years of age.

**Council** means the Council of the Corporation of the Township of Central Frontenac.

**Fire Ban** means a partial or total ban against any Open-Air Fire in the Township as declared by the Chief Fire Official;

**Incinerator** means a steel “shipping” style barrel or similar sized non-combustible device, and may include a woodstove or outdoor fireplace. There shall be a platform in the bottom of the barrel or firebox with air inlets below the fire to supply adequate combustion air to aid in a more complete and clean burn. Steel mesh with openings not exceeding 5 mm (3/16 inch) shall be placed on the open air of the barrel or exhaust point of the device to serve as a spark arrestor.

**Open air fire** means a fire where the flame is not contained within a structure that is adequately designed and constructed for the purpose of safely burning combustible materials and includes campfires and Incinerators.

**Permit System** means any system the municipality wishes to use, either manual or electronic and/or combination of both in order to manage compliance with this by-law.

**Total Costs** means the total cost incurred by the Township to extinguish a fire.

**Township** means the Corporation of the Township of Central Frontenac and includes its territorial district as the context requires.

## PROHIBITION

1. No person shall set, light, ignite, or maintain an open air fire, or permit an open air fire to be set, lit, ignited or maintained, at any time, without first obtaining a permit.
2. During the period from April 1<sup>st</sup> to October 31<sup>st</sup> no person shall set, light, ignite or maintain an open air fire, or permit an open air fire to be set, light, ignited or maintained, no sooner than 2 hours before sunset, and the fire must be extinguished no later than 2 hours after sunrise. A campfire in an approved fire pit may be permitted outside the time limits noted in this paragraph provided it is for cooking purposes only.
3. During the period between November 1<sup>st</sup> and March 31<sup>st</sup> no person shall set, light, ignite or maintain an Open Air Fire, or permit an Open Air Fire to be set, light, ignited or maintained without first obtaining a valid fire permit but there are no time restrictions during this period.
4. Notwithstanding anything to the contrary in this By-law, when the Fire Chief has declared a total or partial Burn Ban, no person shall ignite or cause or permit to be ignited any type of open air fire that is included in the Burn Ban. Any permit issued that would allow open air burning that is prohibited by the Burn Ban is deemed to be invalid during the Burn Ban. It is the responsibility of the permit holder to verify the current Burn Ban status to ensure compliance.
5. The Fire Chief may, by written declaration published on the Township website and in any other media he/she chooses, declare a total or partial fire ban for the Township. The Fire Chief may declare any of the following:
  - (i) “Burn Ban Off”= all types of burning permitted with a proper permit.
  - (ii) “Burn Ban Level 1 = burning restricted to incinerators and campfires.
  - (iii) “Burn Ban Level 2 = burning restricted to campfires only.
  - (iv) “Total Burn Ban” = Total ban on all types of open air burning including fireworks.

6. Burning is not permitted during high winds or extremely dry conditions, or when the smoke may cause a nuisance to neighbouring properties unless conditions will allow to burn safely from start to extinguishment.
7. No person responsible for the burning shall abandon an open air fire without first extinguishing the fire and remaining embers or ashes before leaving fire area.
8. No person shall ignite or cause or permit the ignition of any fire on road allowances or any publicly owned land including but not limited to unopened road allowances.

## **REGULATIONS**

9. Where a campfire is permitted, every person who ignites or causes or permits a campfire to be ignited shall comply with the following requirements:
  - (i) The purpose of the open air burning is for cooking only;
  - (ii) The site of the fire is bare rock or other non-combustible material.
  - (iii) The fire is at least one metre from any flammable material.
  - (iv) The space above the one metre area around the fire is at least three metres from vegetation.
  - (v) The fire does not exceed one metre in height and one metre in diameter.
  - (vi) The open air burning is supervised at all times by a Competent Person;
  - (vii) Flame height shall not exceed 60 cm (2 ft); and
  - (viii) There are adequate materials available to extinguish the fire at all times.
10. Where a brush/yard waste open air fire is permitted every person who ignites or causes or permits a brush/yard waste open air fire to be ignited shall comply with the following requirements:
  - (i) A permit must be obtained in advance of the burning;
  - (ii) The permit holder must contact the Fire Department by telephone to report their burning each time as indicated on the burn permit;
  - (iii) Only clean, dry and untreated wood, brush and leaves are to be burned;
  - (iv) Recyclable products such as paper and plastics shall not be burned;
  - (v) Burning of refuse and synthetic products is strictly forbidden;
  - (vi) Brush/yard waste piles material is burned in a single pile that is less than 2m in diameter and less than 2 metres in height;
  - (vii) Brush yard waste piles shall be at least 6m (20 ft.) from any combustibles and 15m (50') from any forested area, building, utility pole/service, or property line; and
  - (viii) The flame height shall not exceed 3m(10')
  - (ix) Burning must take place during the times set out in paragraphs 1 or 2 as applicable.
11. Open field clearing burns can only be done with the prior written approval of the Fire Chief or designate, must adhere to the Prohibition Section of this by-law and must be less than 1 hectare in total size with the length of flaming edge less than 20 metres in length. Any costs associated with site visits and standby crews is the responsibility of the person(s) conducting the burn. (See schedule "C")
12. Incinerator fires shall comply with the following requirements:
  - (i) shall be at least 3m (10 ft.) from any combustible material and 15m (50 ft.) from any property line or forested area.
  - (ii) Only clean wood, brush, leaves or discarded wood by-product may be burned;
  - (iii) The incinerator must meet the structural requirements set out in the definitions above, including a mesh screen to act as spark arrestor

13. The burning of buildings, hay, straw, tires, or any other materials restricted by the Ministry of the Environment, Conservation and Parks is prohibited.
14. It is the responsibility of the property owner to ensure that they, or any person igniting or causing or permitting the ignition of an open air fire on the owner's property:
- (i) have the necessary permit under this By-law;
  - (ii) comply with any permit issued;
  - (iii) have a competent person(s) attending the fire at all times and ensure they have adequate tools and water to extinguish the fire; and
  - (iii) comply with this By-law.

## **PERMITS**

15. The Fire Chief or his/her designate is authorized to issue a special permit to allow commercial Fireworks under any of the Burn Ban Levels.
16. Only a property owner or a person authorized in writing by the property owner may apply for an open air fire permit for the property subject to the permit.
17. An applicant for a permit must complete the prescribed form to the satisfaction of the Fire Chief and pay all applicable fees as set out in Schedule "B".
18. If the Fire Chief or his/her designate is satisfied that the proposed open air burning will be in compliance with this By-law the Fire Chief or his/her designate may issue a permit with or without conditions for any specified period of time deemed appropriate.
19. All permits are required and are in effect from the date purchased until December 31 of that year. The fees for this permit are set out in Schedule "C".
20. Any permit issued may, at the absolute discretion of the Fire Chief or his designate, be revoked at any time where the owner or permit holder has contravened any provision of this By-law or where the Fire Chief or his/her designate has reason to believe that it is in the public interest to revoke the permit.
21. Every person must contact the Fire Department as directed by the terms and conditions on the burn permit to notify the fire department of the location of any brush/yard waste open air burn, the start time and the expected duration of the burn.

## **OFFENCES**

22. Any person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a maximum fine as outlines in Schedule "A".
23. Where the fire department responds to an incident or complaint as a result of non-compliance with any provision of this By-law, a fee for service to respond to the complaint and/or to investigate the complaint shall be charged to the owner of the property and the person responsible for the open air fire, as per schedule "A".
24. Any person who sets a fire in the open air and fails to maintain proper care and control of it or to fully extinguish it, shall indemnify and save harmless the Corporation of the Township of Central Frontenac and shall be liable for the full expense incurred by the Township of Central Frontenac Fire and Emergency Services to extinguish the fire, in addition to any penalty that may be imposed for the breach upon conviction or any administrative monetary penalty.
25. In addition to any other remedies available to the municipality, any amount due to the Township of Central Frontenac, by any person who is a registered owner of real property within the Township of Central Frontenac for the call out of the Township of Central Frontenac Fire and Emergency Services in accordance with this by-law, may

be added to the tax roll for the person's real property and collected in like manner as municipal taxes in accordance with Section 398(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

26. Every person who contravenes any provision of this By-law is liable for an Administrative Monetary Penalty (AMP) in lieu of prosecution and fine, pursuant to section 434.1 of the Municipal Act, 2001, as amended.
27. At the discretion of the Fire Chief, any person who breaches any provision of this By-law may be issued an Administrative Monetary Penalty Notice in an amount not to exceed \$500.00.
28. The AMP Notice shall include the following information:
  - (i) the name of the person contravening this By-law;
  - (ii) the particulars of the contravention;
  - (iii) the amount of the AMP and the date payment is due;
  - (iv) a statement that if the AMP is not paid that it shall constitute a debt owed to the Township that may be collected in any manner permitted by law, including adding it to the Tax Roll of the person and being collected in the same manner as real property taxes.
29. The AMP Notice may be served in the same manner as an order under this By-law.
30. Upon receipt of the AMP Notice, the person named in the Notice shall pay the prescribed amount to the Township within fifteen (15) days.
31. Where an AMP is paid in full within fifteen (15) days of receipt, no prosecution shall be initiated against that person for the same offence.
32. Where an AMP is not paid in full within fifteen (15) days of receipt, a further late payment charge shall be levied in accordance with the Municipality's Fees and Charges By-law.
33. The Township may collect any unpaid AMP from the person named in the AMP as a debt owed to the Township in any manner permitted by law. In addition to any other collection method, the Township may add the amount owing to the tax roll of the person named in the AMP Notice and collect the amount in the same manner as real property taxes.

## **GENERAL PROVISIONS**

34. If any section, subsection or part of this by-law is declared by any Court of Law to be illegal or *ultra vires*, such section, subsection or part hereof are declared to be separate and independent and enacted as such.
35. This by-law shall become effective and repeal By-law 2020-32 on April 1, 2021.

**READ A FIRST AND SECOND TIME THIS 9 DAY OF MARCH 2021.**

**READ A THIRD AND FINAL TIME AND PASSED THIS 9 DAY OF MARCH 2021.**

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MAYOR

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CAO/CLERK

## **SCHEDULE “A”**

### **TO BY- LAW 2021-21**

As per the Township of Central Frontenac’s Burn By-law, the charge for the municipality to extinguish a fire shall be:

- \$425.00 per hour per Pumper, Tanker, Squad and Utility vehicle (includes driver)
- \$25.00 per hour per firefighter
- All-Terrain Vehicle (ATV/UTV) \$150.00 per hour (includes driver),
- Wild Fire Pumps \$100.00 per hour.

In the event Section 21.1(5) of the Forest Fires Prevention Act is applicable, the owner of the property and/or the person causing the fire shall be liable for all prescribed costs incurred by the municipality, which costs may be in addition to the costs calculated in this Schedule.

As per the Township of Central Frontenac’s Burn By-law, the charge for the municipality to investigate a complaint where the investigation reveals that the owner of the property and/or the person responsible for the open air fire has contravened this By-law shall be:

- (i) First Incident – a maximum of \$250.00
- (ii) Second Incident for the same offence or a different offence on the same property – a maximum of \$1,000.00; and
- (iii) Any investigation during a Total Burn Ban – a minimum of \$300.00 and a maximum of \$500.00

All charges imposed are due and payable upon receipt and shall bear interest calculated at the same rate and in the same manner as municipal taxes from the due date until paid in full.

## **SCHEDULE "B"**

### **TO BY-LAW 2021-21**

#### Fee schedule

Campfire permit - \$5.00 per season.

Incinerator permit-\$10.00 per season.

Brush/yard waste pile permit - \$10.00 per season\*\* Must notify the Fire Department as per the approved permit\*\*.

## **SCHEDULE "C"**

### **TO BY-LAW 2021-21**

#### Clearing Burns Standby Fees

Site Visit by Fire Official before clearing burn - \$75.00

Stand-by of two fire crew and Apparatus - \$425.00 per hour

Additional Crew - \$25.00 per hour.