

# **THE RURAL MUNICIPALITY OF WEST ST. PAUL**

## **BY-LAW NO. 2020-11**

### **BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WEST ST. PAUL FOR THE PREVENTION AND THE CONTROL OF FIRES WITHIN THE RURAL MUNICIPALITY OF WEST ST. PAUL AND TO REPEAL BY-LAW NO. 2015-16.**

**WHEREAS** it is deemed expedient and advisable to pass a By-Law to provide generally for the protection of life and property from damages by fire and to regulate burning within the Rural Municipality of West St. Paul (the "Municipality");

**AND WHEREAS** Section 232(1) of *The Municipal Act* provides that a Council may pass By-Laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (i) preventing and fighting fires; and
- (o) the enforcement of by-laws;

**AND WHEREAS** Section 232(2) of *The Municipal Act* provides that a Council may in a By-Law;

- (a) regulate or prohibit;

**NOW THEREFORE** The Council of the Rural Municipality of West St. Paul, in Council duly assembled, enacts as follows:

#### **1. SHORT TITLE**

1. This By-Law be referred to as the "Burning By-Law".

#### **2. DEFINITIONS**

2. In this by-law,
  - a) "*Approved Receptacle*" means an approved fire pit, approved outdoor fireplace or approved outdoor warming fire receptacle, as described within this By-Law;
  - b) "*Authority Having Jurisdiction (AHJ)*" the Municipal Council and the duly appointed agents thereof, including the CAO, the Chief and Officer;
  - c) "CAO" the Chief Administrative Officer of the Municipality;

- d) *"Chief"* means the Fire Chief of the West St. Paul Fire Department or delegate;
- e) *"Designate"* any person authorized by the AHJ to enforce this By-Law on behalf of the AHJ;
- f) *"Officer"* the Fire Chief, any member of the Fire Service or any person on behalf of the AHJ, appointed as a fire guardian for purposes of *The Wildfires Act*;
- g) *"Outdoor Fire"* a fire that is started outdoors including crop residue burning, land clearing and grass burning;
- h) *"Wildfire Season"* the period in each year commencing on April 1 and ending on November 15 or any other period of time that may be designated by the AHJ;
- i) \* *"A4 - Agricultural"* a parcel of land with a site area a minimum of 1.619Ha (4ac) and a minimum site width of 60.350m (198ft);
- j) \* *"A80 - Agricultural"* a parcel of land with a site area a minimum of 32.376Ha (80ac) and a minimum site width of 91.44m (300ft);
- k) \* *"CH - Commercial Highway"* a parcel of land with a site area a minimum of 5.574m<sup>2</sup> (1.377ac) and a minimum site with of 30.48m (100ft);
- l) \* *"M1 - Rural Industrial"* a parcel of land with a site area minimum of 5,574m<sup>2</sup> (1.377ac) and a minimum site width of 30.48 m (100ft);
- m) \* *"M2 - Heavy Industrial"* a parcel of land with a site area minimum of 5,574m<sup>2</sup> (1.377ac) and a minimum site width of 30.48m (100ft);
- n) \* *"OS - Open Space"* a parcel of land with a site area a minimum of 20,234.3m<sup>2</sup> (5ac) and a minimum site width of 91.44m (300ft);
- o) \* *"R3 - Multi-Family Dwelling Zone"* a parcel of land with a site dimension a minimum of 5,574m<sup>2</sup> (1.377ac) and a minimum frontage of 60.35m (198ft);
- p) \* *"RC - Comprehensive Residential"* a parcel of land with a site dimension a minimum of 743m<sup>2</sup> (8,000sq ft) and a minimum frontage of 18.29m (60ft);
- q) \* *"RG - Residential General"* a parcel of land with a site dimension a minimum of 1393.5m<sup>2</sup> (15,000sq ft) and a minimum frontage of 22.86m (75ft);

- r) \* \*\* *"RMF-1 - Serviced Multi-Family Residential 1"* a parcel of land with a site area of a minimum of 223.0m<sup>2</sup> (2,400.0ft<sup>2</sup>) and a minimum site width of 7.3m (24.0ft);
- s) \* *"RMF-2 - Serviced Multi-Family Residential 2"* a parcel of land with a site area of a minimum of 4.046.9m<sup>2</sup> (1.0ac) and a minimum site width of 54.9m (180.0ft);
- t) \* *"RRO - Rural Residential Overlay"* a parcel of land with a site dimension a minimum of 8,094m<sup>2</sup> (2ac) and a minimum frontage of 37.795m (124ft);
- u) \* *"RR - Residential Rural"* a parcel of land with a site dimension a minimum of 5,574m<sup>2</sup> (1.377ac) and a minimum frontage of 60.35m (198ft);
- v) \* *"RS - Serviced Residential"* a parcel of land with a site area of a minimum of 408.8m<sup>2</sup> (4,400.0ft<sup>2</sup>) and a minimum site width of 13.41m (44.0ft);
- w) *"Spark Arrester"* refers to the grill or mesh fire receptacle covering with openings no larger than 12mm (1/2in) and constructed of a non-combustible material needed to prevent the emission of any flammable debris from any source of combustion.

\*Site dimensions may vary as per any approved Variances or Zoning By-Law amendments.

\*\* The minimum lot area and width for an RMF-1 Zone interior lot with two party wall divisions between Townhouse units is 22ft. and 2,200ft<sup>2</sup> respectively.

### **3. DELEGATION OF AUTHORITY**

- 3. That the AHJ, the CAO, the Chief or designate of the Municipality be appointed as Officers for the purpose of enforcing provincial statutes, regulations as well as this By-Law.

### **4. INSPECTION AND ORDERS**

- 4. The AHJ or Designate may:
  - a) Enter at all reasonable times on any property to ascertain whether there is compliance with this By-Law;
  - b) Make orders directing the owners or occupiers of property, or any operators of a fire, to comply with this By-Law, including to bring any fire into compliance with this By-Law;
  - c) Prevent improper and potentially hazardous material from being added to any fire or any fire to be started;

- d) Call on the Office of the Fire Commissioner if a person is burning waste in contravention of *The Wildfires Act* or any other applicable provincial legislation;
- e) Order the owner or occupier or operator to immediately extinguish any fire and for there to be compliance with this By-Law.

## **5. PROHIBITION**

### **5. Subject to the provisions of this By-Law:**

- a) No person shall burn, place or deposit for the purpose of burning, upon any private or public property any: garbage, food, animal waste or slops, manure, bedding, dirt, paper, filth, rubbish, raw garbage, grass clippings, materials or other refuse or excretion in the Municipality; in the areas zoned as R3, RC, RG, RMF-1, RMF-2, RS, RR or RRO, as defined in the Municipality Zoning By-Law 2/99P and all amendments from time to time including any successor By-Laws related thereto;
- b) No person shall burn such of the foregoing that would in the opinion of AHJ be in contravention of this By-Law, or create a public nuisance that would be detrimental to the health or comfort of the residents of the Municipality;
- c) No person shall burn, place or deposit for the purpose of burning upon any private or public property any toxic and non-toxic materials prohibited by *The Environmental Protection Act* and all amendments from time to time including any successor legislation related to the subject matter, including: treated, painted or laminated wood, tires, rubber, plastic, asphalt, foam, insulation, cardboard, cloth, grass, or vegetation;
- d) That no commercial or industrial burning is permitted;
- e) That no burning be permitted in areas zoned CH, M1, M2 or OS (as shown on Schedule "A" to this By-Law);
- f) That properties zoned as R3, RC, RG, RMF-1, RMF-2, or RS may have one fire pit only.

## **6. RESPONSIBILITIES**

- 6.1 All burning within the Municipality shall be subject to applicable provincial legislation and regulations, including *The Wildfires Act*, and *The Manitoba Crop Burning Residue Burning Regulation – MR 77/93*.
- 6.2 Authorization to conduct outdoor fire burning does not exempt or excuse a person from the responsibility, consequences, damages, or injuries resulting from

the authorized burning and does not excuse a person from complying with other applicable laws, ordinances or regulations.

- 6.3 Any outdoor fire shall be supervised by the owner or occupier of the property or a person authorized by the owner or occupier of the property.
- 6.4 No person shall start an outdoor fire on any property without ensuring precautions are taken that are reasonably necessary to protect persons and the property of theirs and others from the fire.
- 6.5 No person shall start an outdoor fire unless all precautions are taken to ensure that the fire can be kept under control, and only when weather conditions are conducive to a fire burning out of control.
- 6.6 No person shall cause an outdoor fire to be started in order to guard property; clear land or burn debris; burn crop, stubble or grass; unless the property on which the fire is started is completely surrounded by a fire guard consisting of:
  - i. a strip of land free of flammable material, or of sufficient width to control the fire;
  - ii. by natural or man-made barriers, water; or
  - iii. by a combination of (i) and (ii).
- 6.7 Smoke from an outdoor fire shall not pose unreasonable hazard to the health of any person or reduce the visibility on any road or highway.
- 6.8 A sufficient water supply and means of fire suppression capable of extinguishing the outdoor fire based on its fuel loading and size shall be available on site.
- 6.9 All fires must be extinguished when unsupervised.

## **7. RULES REGARDING ALL OPEN-AIR FIRES**

- 7. An owner, occupier and person in charge of an open-air fire must ensure that:
  - a) the fire is always supervised by a person 18 years of age or older until and unless it is fully extinguished;
  - b) the fire is always kept under control;
  - c) an adequate supply of water, sand or some other means of controlling and extinguishing the fire is readily accessible;
  - d) the fire is not set or maintained in conditions or locations which will or could result in:

- i. reduced visibility on any highway or road;
- ii. a rapid spread of fire through grass or brushed area;
- e) the fire is not set or maintained when the wind exceeds 25 kilometers per hour (15 miles per hour);
- f) if the fire becomes uncontrollable or spreads beyond its assigned limits, the West St. Paul Fire Department is alerted by calling 911;
- g) that only clean, dry, unpainted and untreated wood, tree prunings, brush, or leaves are burned;
- h) straw bales may be burned for properties zoned as RR, RRO, A4 or A80 only;
- i) Open-air fires not be used for commercial or industrial applications.

## **8. RULES REGARDING FIRES IN RECEPTACLES**

- 8. An owner, occupier and person in charge of an open-air fire on the grounds of a residential property must ensure that:
  - a) the fire is maintained within an approved receptacle;
  - b) for properties zoned as R3, RC, RG, RMF-1, RMF-2, RS, RR, RRO, A4 or A80 (as shown on Schedule "A" to this By-Law):
    - i. the fire is maintained a minimum of 4.5m (15ft), as measured from the nearest edge of the fire, from any combustible buildings or structures, combustible fences, trees and overhead wires; and
    - ii. that only clean, dry, unpainted and untreated wood, tree prunings, brush, or leaves are burned.
  - c) Fires in receptacles not be used for commercial or industrial applications.

## **9. REQUIREMENTS FOR FIRE PIT**

- 9. An approved fire pit must:
  - a) be enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other non-combustible materials acceptable to the AHJ or Chief;
  - b) be at least 15cm (6in) in height above the surrounding grade but no more than 60cm (24in) in depth when measured from the top of the pit opening to the bottom of the pit;

- c) for properties zoned as R3, RC, RG, RMF-1, RMF-2, or RS (as shown on Schedule "A" to this By-Law):
  - i. have an opening that does not exceed 90cm (3ft) in diameter or an area of .83m<sup>2</sup> (9ft<sup>2</sup>) and in which neither the width nor length is greater than 90cm (3ft);
  - ii. have a spark arrestor, grill or mesh with openings no larger than 12mm (1/2in) and constructed of a non-combustible material, which is used to cover the entire area of the fire pit opening;
- d) for properties zoned as RR, RRO, A4 or A80 (as shown on Schedule "A" to this By-Law):
  - i. have an opening that does not exceed 180cm (6ft) in diameter or an area of 3.24m<sup>2</sup> (36ft<sup>2</sup>) and in which neither the width nor length is greater than 75cm (6ft); and
- e) Fire pits not be used for commercial or industrial applications.

## **10. REQUIREMENTS FOR OUTDOOR FIREPLACES**

- 10. An approved outdoor fireplace must:
  - a) be constructed of masonry, concrete, heavy gauge metal or mesh or other noncombustible materials acceptable to the AHJ or Chief;
  - b) have a chimney designed and constructed as a proportional and integral part of the fireplace to ensure that an adequate draft is created;
  - c) have its chimney opening entirely covered by a non-combustible spark arrestor, grill or mesh with openings no larger than 12mm (1/2in);
  - d) have a side opening to the fire chamber which does not exceed 0.56m<sup>2</sup> (6ft<sup>2</sup>) in area, and in which neither the width nor length is greater than 75cm (2.5ft);
  - e) has its side opening entirely covered by a non-combustible spark arrestor, grill or mesh with openings no larger than 12mm (1/2in); and
  - f) Outdoor fireplaces not be used for commercial or industrial applications.

## **11. REQUIREMENTS FOR OUTDOOR WARMING FIRE RECEPTACLES**

- 11. An approved outdoor warming fire receptacle must be a metal receptacle in good repair that has a maximum capacity of 225 liters (50 gallons) with all openings entirely covered by removable, non-combustible spark arrestors, grills or mesh with openings no larger than 12mm (1/2in).

## 12. BURNING BAN

12. The AHJ or Chief may ban **ALL BURNING** (including fires contained within fire pits and solid fuel burning appliances) in the Municipality if conditions exist where, in the opinion of the AHJ or Chief, fires are of extremely high risk, and such a ban is necessary for the safety, health and protection of its residents or property.

## 13. OFFENCE AND PENALTIES


- 13.1 It is an offence to contravene any provisions of this By-Law. Any conviction of an offence is subject to a penalty of up to \$1,000.00, plus any applicable costs. Where any offence continues for more than one day, a person is guilty of a separate offence for each day the offence continues.
- 13.2 Where a person is in contravention under this By-Law, in addition to imposing a fine, the Municipality is entitled to be reimbursed by the person(s) for costs incurred by the Municipality in fire protection and suppression operations that were undertaken as a result of the person(s) acts or omissions that resulted in the costs to be incurred.

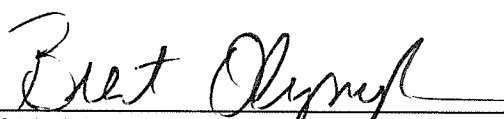
## 14. REPEAL

14. That By-Law No. 2015-16 of the Rural Municipality of West St. Paul is hereby repealed.

**DONE AND PASSED** by the Council of the Rural Municipality of West St. Paul in regular session assembled this 2<sup>nd</sup> day of November, A.D. 2020.

RURAL MUNICIPALITY OF WEST ST. PAUL

  
Mayor

  
Chief Administrative Officer

Read a first time this 10<sup>th</sup> day of October, A.D. 2020.

Read a second time this 26<sup>th</sup> day of October, A.D. 2020.

Read a third time this 2<sup>nd</sup> day of November, A.D. 2020.



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SCHEDULE "A"

