

THE CORPORATION OF THE MUNICIPALITY OF ST-CHARLES

BY-LAW 2020-14

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

**WHEREAS** Section 7.1 of the *Fire Protection and Prevention Act*, S.O. 1997, c.4, as amended, provides that a municipality may pass By-Laws regulating fire prevention, including the prevention of the spreading of fires and 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 provides that a municipality may pass By-Laws imposing fees or charges on any class or persons for services or activities provided or done by or on behalf of it;

**AND WHEREAS** the *Ontario Fire Code*, Part 2 Section 2.6, Article 2.6.3.4. states open air burning shall not be permitted unless approved or unless such burning consists of a small, confined fire, supervised at all times., and used to cook food on a grill or barbeque;

**NOW THEREFORE** the Council for the Corporation of the Municipality of St.-Charles hereby enacts as follows:

**SECTION 1 SHORT TITLE**

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

**SECTION 2 DEFINITIONS**

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

2.2 **APPROVED** means as approved by the Fire Chief or designate;

2.3 **CAMPFIRE** means a small (60 cm x 60 cm with flames no more than 60 cm high – 24”x24” x 24” high), contained fire that is supervised and used for the preparation of food or to provide warmth and which is attended at all times;

2.4 **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;

2.5 **FIRE** means a fire that would require a permit since it is not being used solely for warmth or the preparation of food;

2.6 **FIRE CHIEF** means the person appointed by the Council of Corporation of the Municipality of St.- Charles as the Chief of the Municipality of St.-Charles Fire Department;

2.7 **FIRE DEPARTMENT** means the Fire Department of the Municipality of St.-Charles;

2.8 **FIRE PIT** means a container, apparatus or physical construct that is capable of controlling the spread of a fire;

2.9 **FIRE SEASON** means the period of time allotted by the municipality where an Open-Air Burning Permit is required;

2.10 **GRASS** means dry, dead, fine herbaceous material made up of different grasses, weeds, agricultural crops, leaves;

2.11 **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;

2.12 **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:

- 2.12.1 corrosive wastes including batteries, drain cleaners and oven cleaners;
- 2.12.2 toxic wastes including pesticides, poisons, pharmaceuticals and cleaning fluids;
- 2.12.3 reactive wastes including pool chemicals, ammonia, bleach and aerosols;
- 2.12.4 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;
- 2.12.5 fluorescent tubes and thermometers;
- 2.12.6 fertilizers, weed and bug killers; or,
- 2.12.7 distillates.

2.13 **INCINERATOR** means an enclosed device used to burn approved refuse as detailed in Schedule "B" of this By-Law;

2.14 **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;

2.15 **MUNICIPAL LAW ENFORCEMENT OFFICER** means the officer in charge of the By-Law Enforcement of the Corporation of the Municipality of St.-Charles or his or her authorized subordinates or assistants;

2.16 **MUNICIPALITY** means the Corporation of the Municipality of St.-Charles;

2.17 **NUISANCE** means 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.

2.18 **OFFICER** means a Municipal Law Enforcement Officer (MLEO), a building inspector, a fire prevention officer, a fire fighter, a health inspector, a weed inspector appointed under the *Weed Control Act*, as amended, or any other person appointed or employed by the municipality for the enforcement of By-Laws and includes a peace officer;

2.19 **OPEN BURNING** means any outdoor fire that does not burn within a container equipped with a chimney or stack. Open burning activities are regulated by the *Fire Code* and open burning is also regulated by this Municipal By-Law and enforced locally by the St.-Charles Fire Department. The guidelines for open burning are established to prevent fire damage resulting from open burning activities that get out of control, prevent the discharge of pollutants into the atmosphere and to protect others from hazardous or undesirable smoke conditions;

2.20 **PERMANENT OR PORTABLE STOVE** means a commercially manufactured permanent or portable device used for the preparation of food and / or for warmth;

2.21 **PERMIT** means a permit issued pursuant to the terms of this By-Law;

2.22 **PERMITEE** means any person at least eighteen (18) years of age, who has been lawfully issued an Open-Air Burning Permit by the Municipality of St.-Charles;

2.23 **PERSON** means an owner, applicant, tenant or anyone over 18 years old and shall include 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;

2.24 **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 open fires in a specific area of the Province. It is used when the fire hazard is extreme and / or when firefighting resources are stretched to capacity;

2.25 **WINDROW** means 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.

### **SECTION 3 JURISDICTION**

3.1 This By-Law shall apply to all land within the geographical limits of the Municipality of St.-Charles.

### **SECTION 4 EXEMPTIONS**

4.1 A fire wholly contained within a permanent or portable stove that follows all of the provisions of Section 5 shall not be deemed to be a fire for the purposes of this By-Law.

4.2 A campfire does not require an Open-Air Burning Permit, but it must follow the restrictions outlined in Section 5.

### **SECTION 5 PROHIBITIONS**

No person shall:

5.1 set a fire or permit the setting of a fire or having set or permitted the setting of a fire allow any fire to burn outdoors during the fire season outside of a Restricted Fire Zone

for any purpose other than cooking or obtaining warmth, except under the authority of an Open-Air Burning Permit issued by the Municipality;

5.2 use a permanent or portable stove or permit the use of a permanent or portable stove for cooking or warmth in or outside of a restricted fire zone unless;

5.2.1 the stove is at least 1 metre from any naturally occurring flammable material;

5.2.2 the stove is designed to use a liquid or gas as fuel;

5.2.3 a liquid or gas is used as the fuel; and,

5.2.4 the flame in the stove can be extinguished by closing a fuel control valve or by closing the stove.

5.3 set a fire or permit the setting of a fire or allow a 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.) from April 1 to October 31.

5.4 set a fire or permit the setting of a fire or allow a 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 to do so from the Fire Chief or designate;

5.5 set a fire or permit the setting of a fire or allow a fire to burn that causes any issue with visibility on any highway;

5.6 set a fire on any land of which he / she is not the registered owner, without the written permission of the registered landowner;

5.7 burn or permit the burning, or allow the burning of industrial waste, agricultural waste, domestic waste, petroleum products, rubber, painted lumber, mixed demolition debris, explosives or any part there of 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;

5.8 start, permit or allow a fire to burn outdoors unless conditions will allow the fire to burn safely from start to extinguishment;

5.9 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;

5.10 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;

5.11 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;

5.12 damage any property or cause injury to persons with respect to the setting of a fire or permitting the fire to burn;

5.13 start, permit or allow any fire to burn in an area where winds are greater than 10 km per hour;

5.14 leave a fire unattended until it is completely extinguished;

5.15 set, permit or allow a fire to burn which causes a nuisance or irritation to others;

5.16 refuse to extinguish a fire if directed to do so by the Fire Chief or designate or by an officer of the municipality;

5.17 no person shall start, permit or allow any fire to burn in a Restricted Fire Zone (RFZ) (includes campfires);

5.18 where an Open-Air Burning Permit pursuant to this By-Law has been issued, no person shall:

5.18.1 set, permit or allow a fire to burn without paper or electronic copy of a permit at the site of the fire set out under said permit;

5.18.2 fail to produce or show a paper or electronic copy of the permit to the Fire Chief or designate or to any officer of the Municipality.

## **SECTION 6 LAND CLEARING**

6.1 All slash and land clearing debris for burning shall be set out in piles or windrows separated by a distance of at least 20 m (66 ft) and said piles or windrows shall be in sections not exceeding 15 m or (50 ft) in length.

## **SECTION 7 CANCELLATION OF AN OPEN-AIR BURNING PERMIT**

7.1 Any Open-Air Burning Permit may be cancelled or suspended at any time by the Fire Chief or designate 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 a fire set or burning under a suspended Open-Air Burning Permit shall be considered an offence under this bylaw.

## **SECTION 8 APPROVAL FROM THE FIRE CHIEF OR DESIGNATE**

8.1 Notwithstanding the provisions of Section 5 or 6, the Fire Chief or designate may, upon application, approve the setting of a fire, on the condition that it may be attended by the Fire Chief of the Municipality of St.-Charles or his / her designate.

## **SECTION 9 FEES**

9.1 The fees for Open-Air Burning Permits shall conform to fees set out in Schedule "A" of this By-Law.

## **SECTION 10 ADDITIONAL CHARGES FOR EXTINGUISHMENT**

10.1 If the Fire Department is called to respond to a fire set or permitted to burn, in violation of this By-Law, the person who set the fire, or allowed it to burn, and the owner of the land if the owner permitted the fire to be set or the fire to burn, may pay, upon demand, the costs incurred by the Municipal Fire Department including the personnel, equipment and apparatus necessary to extinguish any fire set or burning contrary to this By-Law or contrary to any permit issued under this By-Law by paying the fees as follows:

- a. fees will be based on current MTO rates plus personnel costs, plus any additional costs to the Municipality;
- b. time will be charged from the receipt of the alarm through to the time responding personnel and units are returned to service.

## **SECTION 11 FAILURE TO PAY FINES**

11.1 If any person fails to pay the fines set out above, forthwith upon demand, the amount of the fee in default may, in addition to any other remedies the Municipality may have, be recovered by the Municipality in like manner as municipal taxes in accordance with Section 398(2) of the *Municipal Act*, as amended, against the owner of the land, if the owner set the fire, allowed the fire to burn, or permitted the fire to be set or to burn, in violation of this By-Law or any permit issued under this By-Law.

## **SECTION 12 OFFENCES**

12.1 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.

12.2 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.

12.3 No person shall hinder or obstruct the Fire Chief or designate or an officer of the municipality, appointed under this By-Law or employed to enforce this By-Law, from carrying out his or her duties, nor shall any person obstruct any employee or agent authorized to carry out the work for the municipality in an order issued hereunder.

## **SECTION 13 SEVERABILITY**

13.1 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.

15.2 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.

**SECTION 16 ADMINISTRATION AND ENACTMENT**

16.1 The administrative staff of the Municipality are hereby authorized to issue the said permits and accept payment of the applicable prescribed fees as described in Schedule "A".

16.2 This By-Law replaces and repeals By-Law 2018-34 and By-Law 2018-42 and all other By-Laws on the same subject matter which are inconsistent with this By-Law are hereby repealed.

16.3 This By-Law shall come into force and take effect on the day it is passed.

**READ A FIRST AND SECOND TIME THIS 18<sup>TH</sup> DAY OF MARCH 2020.**

  
MAYOR

  
CLERK

**READ A THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS 20<sup>th</sup>  
DAY OF May, 2020.**

  
MAYOR

  
CLERK

## **SCHEDULE "A" TO BY-LAW 2020-14**

### **FEES**

**Yearly Permit** - \$100.00 (inclusive of HST)  
(valid January 1<sup>st</sup> through December 31<sup>st</sup> per calendar year)

**Daily Permit** - \$25.00 per day (inclusive of HST)  
(limited to a maximum of 4 consecutive days)

**Research and reporting** - \$50.00 per hour (plus HST)

## SCHEDULE "B" TO BY-LAW 2020-14

### INCINERATORS

1. Materials to be considered for burning in an incinerator:
  - A. Yard Waste (grass, leaves, branches)
  - B. Household Items (paper, cardboard, wrapping paper)
  - C. Small Scraps of Wood
  - D. Brush and Tree Limbs
  
2. Material that shall not be burnt in an incinerator;
  - A. Domestic Waste
  - B. Construction Materials
  - C. Materials made of or containing Rubber
  - D. Plastic of any kind
  - E. Tar paper or any material made with Tar
  - F. Industrial Waste
  - G. Agricultural Waste
  - H. Bio Waste, Animal Waste
  
3. This is a suggested list and the Fire Chief or his / her designate shall have the authority to add or remove any item(s) they deem necessary.
  
4. Persons having the authority to burn in an approved container shall always be cautious of the wind when burning. When wind direction moves smoke and debris into their neighbour's property they shall immediately put out the fire and wait until the conditions are favorable to restart burning.

**SCHEDULE "C" TO BY-LAW 2020-14 – OPEN AIR BURNING  
MUNICIPALITY OF ST.-CHARLES  
PART 1 – PROVINCIAL OFFENCE ACT  
POA / FINES**

<b>ITEM</b>	<b>Short Form Wording</b>	<b>Provision Creating or Defining the Offence</b>	<b>Set Fines</b>
1	Set a fire without a permit.	5.1	\$150
2	Permit setting a fire without a permit.	5.1	\$150
3	Allow a fire to burn without a permit.	5.1	\$150
4	Using a non-approved permanent or portable stove.	5.2	\$150
5	Allowing the use of a non approved permanent or portable stove.	5.2	\$150
6	Set a fire during restricted hours.	5.3	\$150
7	Permit a fire to burn during restricted hours.	5.3	\$150
8	Allow a fire to burn during restricted hours.	5.3	\$150
9	Set an unauthorized fire on municipal land requiring permission.	5.4	\$200
10	Permit an unauthorized fire to burn on municipal land requiring permission.	5.4	\$200
11	Allow an unauthorized fire to burn on municipal land requiring permission.	5.4	\$200
12	Set a fire that affects visibility on a highway.	5.5	\$250
13	Permit a fire to affect visibility on a highway.	5.5	\$250
14	Allow a fire to affect visibility on a highway.	5.5	\$250
15	Set a fire without owner's permission.	5.6	\$150
16	Burn waste - cause excessive smoke or fumes.	5.7	\$150
17	Burn waste - permit excessive smoke or fumes.	5.7	\$150
18	Burn waste - allow excessive smoke or fumes.	5.7	\$150
19	Start a fire under unsafe conditions.	5.8	\$250
20	Permit a fire to burn under unsafe conditions.	5.8	\$250
21	Allow a fire to burn under unsafe conditions.	5.8	\$250
22	Fail to provide extinguishment equipment.	5.9	\$250
23	Improper minimum safe distance utilized.	5.10	\$150
24	Improper minimum safe distance utilized for fire larger than 1 cubic metre.	5.11	\$150
25	Setting a fire causing damage to property.	5.12	\$250
26	Setting a fire causing damage to people.	5.12	\$250
27	Permitting a fire causing damage to property.	5.12	\$250
28	Permitting a fire causing damage to people.	5.12	\$250
29	Start a fire in high wind.	5.13	\$250

30	Permit a fire in high wind.	5.13	\$250
31	Allow a fire to burn in high wind.	5.13	\$250
32	Leave a fire unattended.	5.14	\$250
33	Set a nuisance fire.	5.15	\$150
34	Permit a nuisance fire.	5.15	\$150
35	Allow a nuisance fire.	5.15	\$150
36	Refuse to extinguish a fire.	5.16	\$250
37	Start a fire or campfire in a Restricted Fire Zone.	5.17	\$250
38	Permit a fire or campfire in a Restricted Fire Zone.	5.17	\$250
39	Allow a fire or campfire in a Restricted Fire Zone.	5.17	\$250
40	Fail to have a permit on site of fire.	5.18.1	\$150
41	Fail to produce a permit at site of fire.	5.18.2	\$150
42	Hinder or obstruct an officer.	12.3	\$450

\*NOTE Penalty Provisions for the offences indicated above is Section 12 of By-Law 2020-14, a certified copy of which has been filed.