

THE RURAL MUNICIPALITY OF ST. FRANCOIS XAVIER

BY-LAW NO. 5-2021

BEING A BY-LAW TO PREVENT AND CONTROL WILDLAND FIRES

Being a By-law of the Rural Municipality of St. Francois Xavier for the prevention and the control of wildland fires within the Rural Municipality of St. Francois Xavier and to repeal By-law 3-2019.

Definitions:

Approved Receptacle: The following requirements must be met for the installation and use of an approved receptacle (e.g. Fire Pit);

- (a) Must be encircled with non-combustible material and have a grate or grill on top of it; and
- (b) Shall not be closer than three metres to combustible construction.

Authority Having Jurisdiction (AHJ): The Municipal Council and the duly appointed agents thereof.

CAO: The Chief Administrative Officer of the Municipality.

Designate: Any person authorized by the AHJ to enforce this By-law on behalf of the AHJ.

Firework: A device containing combustible chemicals that causes a spectacular explosion when ignited, used typically for display or in celebrations.

Officer: The Fire Chief, or any member of the Fire Department, or any person on behalf of the AHJ, appointed as a fire guardian for purposes of *The Wildfires Act*.

Outdoor Fire: A fire that is started outdoors, including crop residue burning, land clearing, grass and yard waste burning. Outdoor fires do not include gas fired cooking receptacles (e.g. barbeques).

Sky Lantern: An unmanned device designed to float up into the atmosphere made of paper or other lightweight material and has a flame inside of it.

Wildfire Season: The period in each year commencing on April 1st and ending on November 15th or any other period of time that may be designated by the AHJ.

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 St. Francois Xavier;

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

- (a) The safety, health, protection and well-being of people from fire
- (b) The safety and protection of property from fire
- (c) Implementing various programs and or laws for fire prevention purposes
- (d) Implementing various programs for the purposes of fire suppression
- (e) Enforcement of any provincial or municipal statues as they may apply

NOW THEREFORE THE COUNCIL OF THE RURAL MUNICIPALITY OF ST. FRANCOIS XAVIER IN SESSION ASSEMBLED, ENACTS AS FOLLOWS:

1.0 Delegation of Authority

1.1 THAT the Authority Having Jurisdiction, Chief Administrative Officer or designate of the Rural Municipality of St. Francois Xavier be appointed as Officers for the purpose of enforcing provincial statues, regulations as well as this By-law.

2.0 Responsibilities

2.1 All burning within the municipality shall be subject to the conditions and provisions of *The Wildfires Act*, and the *Burning of Crop Residue and Non-crop Herbage Regulation – MR 77/93*.

2.2 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.

- a) Any *Outdoor Fire* shall be supervised by the owner or occupier of the land or a person authorized by the owner or occupier of the land.
- b) No person shall start an *Outdoor Fire* on any land without taking sufficient precautions that are reasonably necessary to protect persons and the property of others from the fire.
- c) No person shall start an *Outdoor Fire* unless all precautions are taken to ensure that the fire can be kept under control, or when weather conditions are conducive to a fire burning out of control.
- d) 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 land 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).
- e) The 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.
- f) 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.
- g) No person may ignite, or release when ignited, a sky lantern within the municipality, regardless of whether or not there is a fire ban or restriction in place.
- h) All fires must be extinguished when unsupervised.
- i) If, in the opinion of the Fire Chief, or designate, or the RCMP, it is not conducive to have an outdoor fire or it is a nuisance or a threat to public safety, the Fire Chief, or designate, or the RCMP, can direct that the fire be extinguished.

3.0 Burning Ban

3.1 The municipality may, at their discretion, **RESTRICT** or **BAN ALL BURNING** (including fires contained within fire pits, burning barrels and fireworks) in the Rural Municipality of St. Francois Xavier if conditions exist where, in the opinion of the municipality, fires are of risk, and such a restriction or ban would prevent wildfires from occurring.

3.2 The municipality will use the following levels of tiered fire restrictions to apply the burning ban.

- **Level 1 (Green)** – Fires are allowed in approved receptacles. Outdoor fires and fireworks are allowed.
- **Level 2 (Yellow)** – Fires are **ONLY** allowed in approved receptacles. **NO** other outdoor fires and **NO** fireworks of any type are allowed.

- **Level 3 (Red)** – **NO** Fires and **NO** fireworks of any type are allowed.

4.0 Offense and Penalties

4.1 It is an offense to contravene, neglect, omit, refuse or fail to obey or observe any provision of this By-law. Any offence is subject to a penalty of not less than:

- a) \$500.00 for the first offence
- b) \$750.00 for the second offence
- c) \$1000.00 for each subsequent offence

4.2 Each contravention shall be considered a separate offence.

4.3 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.

4.4 The cost of firefighting and extinguishing a fire that was set in contravention of this by-law may be charged to the property owner at a rate as set out per the Fees and Charges By-law.

4.5 All fines and costs imposed to extinguish a fire that was set in contravention of this by-law, are a debt owed by the owner of the property on which the fire was located, to the Municipality and may be recovered by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act.

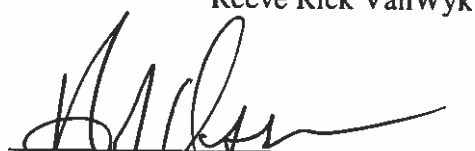
5.0 This By-law shall come into force and take effect on the passing thereof.

6.0 That By-law 3-2019 is hereby repealed,

DONE AND PASSED in open Council assembled at the Council Chambers in The Rural Municipality of St. François Xavier, Province of Manitoba, this 1st day of June, 2021.

THE RURAL MUNICIPALITY OF ST. FRANCOIS XAVIER


Reeve Rick VanWyk


Chief Administrative Officer
Hendrik Visser

Read a first time this 18th day of May 2021.

Read a second time this 1st day of June 2021.

Read a third time this 1st day of June 2021.