

THE CORPORATION OF THE TOWNSHIP OF SABLES-SPANISH RIVERS

BYLAW NUMBER 2016-25

Being a Bylaw for the Purpose of Regulating Open Air Burning

WHEREAS Subsection 7.1(1) of the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, allows the council of a municipality to pass bylaws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Section 10(2)(6) of the Municipal Act, 2001, S.O. 2001, c. 25, allows the municipality to pass a bylaw respecting the health, safety and well-being of persons;

AND WHEREAS the Council of The Corporation of the Township of Sables-Spanish Rivers deems it expedient to impose regulations and the issuance of burning permits to control open air burning for protecting inhabitants, property owners and property in the municipality;

NOW THEREFORE The Council of the Corporation of the Township of Sables-Spanish Rivers ENACTS AS FOLLOWS:

PART 1 – INTERPRETATION

Definitions

1. In this Bylaw,

“Balcony” means a platform projecting from a wall of a multiple dwelling, surrounded by a railing or balustrade;

“Brush fire” means a fire set for the purposes of burning brush, grass, vegetation or leaf type material only;

“Burn barrel” means a steel container similar in construction to a 45 gallon drum and with a volume no greater than that of a 45 gallon drum;

“Burn permit” means a burn permit which is issued in accordance with this Bylaw authorizing a brush fire or a crop residue fire;

“Bylaw Enforcement Officer” means a person duly appointed by the Council of the Township of Sables-Spanish Rivers to enforce Township bylaws;

“Campfire” means a fire intended for and used for the purposes of recreation cooking or warmth only and for no other purpose;

“Chimney” means a non-combustible device made largely from pottery used to hold a small fire with a substantially enclosed hearth;

“Consumer fireworks” means outdoor, low-hazard fireworks designed for recreational uses. They include items like Roman candles, sparklers, fountains, volcanoes, mines and snakes, as outlined by Natural Resources Canada.

“Cooking device” means a non-combustible device designed for and used for the cooking of food and fuelled only by commercial charcoal, compressed gas or wood;

“Crop fire” means a fire set for the purpose of burning agricultural crop residue or similar vegetation only;

“Dwelling unit” means a suite of one or more inter-connected habitable rooms which:

- a) is occupied and used in common by one or more persons as a single, distinct and self-contained housekeeping establishment; and
- b) contains cooking and toilet facilities for the exclusive common use of the occupants thereof;

“Fire” means a fire in the open air, whether or not the fire is contained within a device or appliance;

“Fire Chief” means the Fire Chief of the Township of Sables-Spanish Rivers and includes his or her duly authorized designate;

“Multiple dwelling” means a building containing two or more dwelling units, with or without non-residential uses in the same building and includes any such dwelling where furnished dwelling unit accommodation is provided on a weekly or monthly basis, but does not include a row dwelling;

“Property” includes a building or structure or part of a building or structure, and includes the lands appurtenant thereto and all mobile homes, mobile buildings or mobile structures and vacant land;

“Registered owner” means the person who is shown as owner of a property in the records of the Land Registry Office, a trustee acting on behalf of the registered owner, the estate trustee of a registered owner, a person with a leasehold interest in the land and an authorized representative of a corporate registered owner;

“Row dwelling” means a building which contains two or more dwelling units divided vertically from each other by common walls, which extend at least one story above finished grade and having private independent entrances to each dwelling unit directly from a yard;

“Township” means the Township of Sables-Spanish Rivers

Short Title

2. This Bylaw shall be known as the “Open Air Burning Bylaw”.

PART 2 – APPLICATION

Application

3. This bylaw applies within the geographic limits of the Township of Sables-Spanish Rivers.

Non-Application

4. This Bylaw does not apply to a person who sets a fire:
 - a) in an incinerator operated in accordance with the Certificate of Approval issued pursuant to the Environmental Protection Act, R.S.O. 1990, c.E.19 and regulations thereunder, or
 - b) in a device which has been installed outside of a building which meets each of the following conditions:
 - i) the device is designed for and used as a source of heat or power for the building or is designed for and used for a purpose ancillary to a manufacturing process;
 - ii) the device is certified for use for a purpose described in paragraph 4(b)(i) by a recognized agency mandated in part for that purpose;
 - iii) the certification of the device is produced upon request by a Bylaw Enforcement Officer or the Fire Chief; and
 - iv) the device is in good working order.

Effect of Other Legislation

5. (1) Nothing in this By-law shall be deemed to authorize any fire, burning or other act which is in contravention of the Environmental Protection Act, R.S.O. 1990, c. E. 19, the Forest Fires Protection Act, R.S.O. 1990, c. F.24, the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 or any other federal or provincial statute, or any regulation made thereunder.

- (2) In the event of any conflict between the provisions of this Bylaw and any of the said Acts or Regulations, the provisions of the said Act or Acts or the Regulations thereunder shall govern.
- (3) In the event of any conflict between the provisions of this Bylaw and any other municipal bylaw, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

PART 3 - GENERAL PROHIBITIONS - PERMITTED FIRES

Prohibition - Setting Fires

6. Except as provided in Section 4, no person shall set a fire in the Township unless the fire:
 - a) has been approved by the Fire Chief in accordance with Section 7; or
 - b) is a permitted fire;and is otherwise compliant with the requirements of this Bylaw.

Fire Approved by the Fire Chief

7. (1) For the purpose of this By-law, a training or demonstration fire is a fire which is set in the Township for the purpose of demonstrating fire fighting equipment or as a training exercise.
- (2) On receipt and review of a written application, signed by the Applicant and supported by written consent of the registered owner of the property on which the fire is proposed to be set, the Fire Chief is authorized to refuse or to approve on conditions, for the setting of:
 - a) a demonstration or training fire;
 - b) a fire for ceremonial purposes; or
 - c) a bonfire sponsored by an organization or group of persons.
- (3) The Fire Chief shall provide his decision in writing and shall include in his or her written consent:
 - a) the particulars of the fire which is to be set;
 - b) the location at which the fire can be set;
 - c) the size of the fire which is to be set;
 - d) the day and time at which the fire is authorized to be set;
 - e) the person authorized to set the fire;
 - f) in the case of a demonstration or training fire, the requirement that the fire be set in the presence of such members of the Township's Fire Services and such equipment as may be reasonably necessary to be able to control and extinguish the demonstration or training fire;
 - g) the right of the Fire Services to inspect the site of the fire, and
 - h) any restrictions, regulations or conditions to which the consent is subject.
- (4) No person shall set a demonstration or training fire, a fire for ceremonial purposes or a bonfire sponsored by an organization or group of persons unless all of the following conditions are met:
 - a) the person has the prior written consent of the Fire Chief to set the fire;
 - b) the fire is set and maintained in accordance with the written consent of the Fire Chief; and
 - c) the person does not leave the site of the fire until the fire is fully extinguished.

Permitted Fires

8. For the purposes of this Bylaw, a permitted fire is
- a) a fire set in a burn barrel and otherwise in accordance with Section 13;
 - b) a campfire and otherwise in accordance with Section 14;
 - c) a fire set in a cooking device and otherwise in accordance with Section 15;
 - d) a fire set in a chimney and otherwise in accordance with Section 16;
 - e) a fire set in a portable device and otherwise in accordance with Section 17;
 - f) a brush fire, authorized by a burn permit and otherwise in accordance with Section 18;
 - g) a crop residue fire, authorized by a burn permit and otherwise in accordance with Section 19; or
 - h) consumer fireworks and otherwise in accordance with Section 20.

Consent of Registered Owner

9. (1) No person shall set or maintain a permitted fire on any property in the Township unless:
- a) the person setting or maintaining the fire is the registered owner of the property on which the fire is set;
 - b) at least one registered owner of the property or his or her authorized designate is present at the site of the fire from the time fire is set until the fire is fully extinguished; or
 - c) the person setting or maintaining the fire has the written consent of at least one registered owner of the property on which the fire is set, to the setting of a fire of that type on the property.
- (2) No person shall authorize or permit a person to set or maintain a fire on his or her property unless such person is a responsible person and has the ability to control the fire and prevent its spread.
- (3) No person, having the written consent of a registered owner to setting a permitted fire on the property of the registered owner, shall fail to:
- a) keep the written consent at the location of the fire; or
 - b) produce the written consent upon request by a Bylaw Enforcement Officer or the Fire Chief.

Person in Charge

10. (1) No person having started a permitted fire, and, if the person who started the permitted fire is not present, no person in Charge of a fire, shall fail to take all necessary steps to control the fire, prevent its spread and fully extinguish the fire before leaving the site.
- (2) No person, having set a permitted fire, or being left in charge of a permitted fire, shall leave another person in charge of the fire unless such person is a responsible person, able to control the fire and comply with the requirements of this By-law.

Prohibited Materials for Burning

11. No person in the Township shall burn or permit to be burned in a permitted fire any:
- a) kitchen garbage;
 - b) construction material (excluding clean wood product);
 - c) materials made of or containing rubber;
 - d) plastic;

- e) tar; or
- f) wet material.

Prohibited Conditions

12. No person shall set or maintain a permitted fire in the Township in a location or in conditions likely to cause or result in:
- a) a decrease in visibility on any highway or roadway from smoke;
 - b) inconvenience or irritation to others from smoke or fumes;
 - c) the spread of the fire due to grass or other vegetation, proximity of any combustible material or other reason;
 - d) a spread of fire through adjacent grass, brush, or forested area; or
 - e) the endangerment of his or her own property or the endangerment of property of any other person.

PART 4 - PROHIBITIONS - SPECIFIC TYPES OF PERMITTED FIRES

Fire in a Burn Barrel

13. No person shall set a fire in a burn barrel unless such person ensures all of the following conditions are met:
- a) the burn barrel:
 - i) is in good condition;
 - ii) is situated securely on level ground;
 - iii) is located at least 6 metres from any building or structure; and
 - iv) is located at least 5 metres from any forest or woodland;
 - b) all openings in the burn barrel are entirely covered by metal wire mesh with grid openings of not more than 12 mm in diameter;
 - c) the person burns only grass, leaves, brush, wood or wood by-products in the burn barrel; and
 - d) the person sets and maintains the fire in the burn barrel only during the time falling between two (2) hours before sunset and two (2) hours after sunrise of the next following day, unless such person has the prior written consent of the Fire Chief to set or maintain the fire in the burn barrel during any other time.

Campfire

14. (1) No person shall set or maintain a campfire unless the person ensures all of the following conditions are met:
- a) the campfire fire is contained within an area completely surrounded by a non-combustible barrier of metal, masonry, ceramic or stone or is contained within a pit in the ground;
 - b) the diameter of the campfire area in paragraph 14(a) does not exceed 66 centimeters;
 - c) the campfire:
 - i) is located at least 6 metres from any structure; and
 - ii) is located at least 5 metres from any forest or woodland;
 - d) the material burned in the campfire is in a single pile that is less than 66 centimetres in height;

- e) the person tending the campfire has tools or water adequate to contain the fire within the campfire area; and
- f) in the case of a campfire set in a location which is not within an approved camp ground, the person sets and maintains the campfire only during the time falling between two (2) hours before sunset and two (2) hours after sunrise of the next following day.

(2) For the purposes of this Section, an approved camp ground is a Provincial Park, or a tourist camp or trailer camp which is duly authorized by the Township of Sables-Spanish Rivers.

Fire in a Cooking Device

15. No person shall set or maintain a fire in a cooking device unless he or she ensures all of the following conditions are met:

- a) the cooking device:
 - i) is not located on a balcony;
 - ii) is not located on a combustible surface;
 - iii) is located at least 1 metre from any structure; and
 - iv) is in good working order;
- b) the fire in the cooking device is no larger than reasonably necessary to cook the food;
- c) the fire is contained within the cooking device; and
- d) the person burns only commercial charcoal, compressed gas or wood in the cooking device, as is appropriate for that cooking device.

Fire in a Chimnea

16. No person shall set a fire in a chimnea unless he or she ensures all of the following conditions are met:

- a) the chimnea:
 - i) is not located on a balcony;
 - ii) is not located on any combustible surface;
 - iii) is in good working order; and
 - iv) is located at least 6 metres from any structure; and
 - v) is located at least 5 metres from any forest or woodland;
- b) all openings in the chimnea are completely covered by metal wire mesh with grid openings no larger than 12 millimetres in diameter;
- c) the fire is confined to the chimnea;
- d) the person burns only clean dry wood or charcoal in the chimnea; and
- e) the person sets and maintains the fire in the chimnea only during the time falling between two (2) hours before sunset and two (2) hours after sunrise of the following day, unless such person has prior written consent of the Fire Chief to set or maintain the fire in the chimnea during any other time.

Fire in a Portable Device during Construction

17. No person may set or maintain a fire in a portable appliance during a construction or maintenance process unless he or he ensures the following conditions are met:

- a) the portable appliance is designed for the heating of a material during a construction or maintenance process;

- b) the portable appliance is used only for the heating of a material during a construction or maintenance process;
- c) the portable appliance is used in accordance with manufacturer's instructions; and
- d) the portable appliance is in good working order.

Brush Fire – Permit

18. (1) No person shall set or maintain a brush fire without a valid burn permit issued in accordance with this By-law.
- (2) No person holding a valid burn permit for a brush fire shall set or maintain a brush fire unless he or she ensures:
- a) the fire is set and maintained at a distance of no less than 30 metres or such greater distance as may be specified in the burn permit, from:
 - i) the nearest building or other combustible structure; and
 - ii) any overhead wires;
 - b) the materials to be burned in the fire do not exceed 2 metres in length, 2 metres in width and 2 metres in height;
 - c) the fire is not set or maintained except during the time between one (1) hour before sunset and one (1) hour after sunrise of the next following day;
 - d) he or she has the necessary means immediately available at the site of the fire to permit him or her:
 - i) to extinguish the fire;
 - ii) to limit its spread; and
 - iii) if necessary, to summon the Township fire department; and
 - e) the fire is compliant with all conditions and restrictions imposed by the burn permit or imposed as a result of a Fire Prevention inspection conducted by the Fire Chief.

Crop Residue Fire - Permit

19. (1) No person shall set or maintain a crop residue fire without a valid burn permit issued in accordance with this Bylaw.
- (2) Burn Area Less Than One Hectare:
- No person holding a valid burn permit for a crop residue fire not exceeding one hectare shall set or maintain a crop residue fire unless he or she ensures each of the following conditions is met:
- a) the flaming edge of the fire does not exceed 30 metres at any time;
 - b) the fire is not set or maintained except during the time between one (1) hour before sunset and one (1) hour after sunrise of the next following date;
 - c) the person setting the fire has the necessary means immediately available at the site of the fire to permit him or her:
 - i) to extinguish the fire;
 - ii) limit its spread; and
 - iii) if necessary, summon the Township fire department.
 - d) the fire is compliant with all conditions and restrictions imposed by the burn permit or imposed as a result of a Fire Prevention inspection conducted by the Fire Chief.

(3) Burn Area Greater Than One Hectare:

No person holding a valid burn permit for a crop residue fire that exceeds one hectare shall set or maintain a crop residue fire unless he or she ensures that the following conditions are met:

- a) the fire is conducted as set out on the attached *Table 1: Guidelines for Conducting Safe Agricultural Burn Operations Over 1 Hectare in Size*;
- b) the fire is not set or maintained except during the time between one (1) hour before sunset and one (1) hour after sunrise of the next following date;
- c) the person setting the fire has the necessary means immediately available at the site of the fire to permit him or her:
 - i) to extinguish the fire;
 - ii) limit its spread; and
 - iii) if necessary, summon the Township fire department.
- d) the fire is compliant with all conditions and restrictions imposed by the burn permit or imposed as a result of a Fire Prevention inspection conducted by the Fire Chief.

Consumer Fireworks

20. No person shall set off fireworks unless he or she ensures all of the following conditions are met:

- a) discharge of consumer fireworks shall be permitted between sunset and 1:00 a.m. the following morning;
- b) consumer fireworks shall not be discharged into, inside of, or on any building, structure or motor vehicle;
- c) immediately after the conclusion of the setting off or discharging of consumer fireworks, the individual discharging shall carry out a site inspection and remove all unused or partly used consumer fireworks from the site.

PART 5• BURN PERMITS

Issuer of Permits

21. The Fire Chief is authorized to issue burn permits for brush fires and for crop residue fires. The Fire Chief may appoint Fire Wardens for the purpose of issuing permits, as appropriate.

Issuing a Burn Permit

22. (1) Before issuing a burn permit, the Fire Chief or Fire Warden shall record on the face of the burn permit:

- i) the name of the applicant authorized to set the fire;
- ii) the expiry date of the burn permit;
- iii) any restrictions on the hours during which the fire may be set or maintained;
- iv) the municipal address of the property at which the fire may be set and if there is no municipal address for the property, a description for the purposes of identifying the property at which the fire may be set;
- v) whether the fire authorized by the burn permit is a brush fire or a crop residue fire;
- vi) the restrictions, regulations or conditions to which that burn permit is subject; and
- vii) a statement that the burn permit is conditional upon compliance with the terms set out in the burn permit, this Bylaw, and applicable legislation.

- (2) The burn permit shall be signed by the Fire Chief or Fire Warden and the application before releasing it to the applicant.
- (3) Daytime burning shall be permitted between November 1 and March 31 of the winter season while some form of precipitation is actively falling, whether it be snow, rain or sleet, or while there is a minimum of 25 millimetres of measurable snow accumulated on the ground. All other provisions of the bylaw are applicable.

Burn Permit

23. (1) Any burn permit issued under this Bylaw is personal to the permit holder, and shall not be transferred or assigned.
 - (2) No person shall enjoy a vested right in the continuance of any burn permit.
 - (3) A burn permit remains the property of the Township at all times.
 - (4) A burn permit shall be valid only for the period of time for which it was issued and shall expire on the date or in the manner specified in the burn permit.

Permit Holder

24. (1) No person holding a burn permit shall set or maintain a fire under the authority of the burn permit, except in accordance with the terms and conditions of burn permit and this Bylaw.
 - (2) The holder of a burn permit shall keep the burn permit at the site of the fire authorized by the burn permit
 - (3) The holder of the burn permit shall produce the burn permit for examination upon request by the Fire Chief or a Bylaw Enforcement Officer.

Revocation of Permit

25. (1) The Fire Chief may, at any time, in his or her sole discretion, revoke any burn permit if he or she reasonably believes that:
 - a) any of the information in the application or supporting documentation or materials is not accurate;
 - b) a term or condition of the burn permit is not being observed;
 - c) the fire will not be or is not being conducted in a fashion which observes all reasonable safety precautions or is otherwise a risk to person or property; or
 - d) there are any other grounds to terminate the burn permit which the Fire Chief in his or her sole discretion considers sufficient in the circumstances.
- (2) Every burn permit and the right to have any of the permitted fires in Section 8 shall be automatically revoked without further action by the Fire Chief in the event that:
 - a) a restricted fire zone is declared under the *Forest Fire Prevention Act*, R.S.O. 1990, c. F.24, which affects the Township; or
 - b) the Fire Chief declares a fire ban in the Township or the part of the Township to which the burn permit applies, pursuant to the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4.
- (3) Any person who holds a burn permit which has been revoked shall surrender the same to the Fire Chief or a Bylaw Enforcement Officer upon request.

PART 6 - ENFORCEMENT AND RECOVERY OF COSTS

Enforcement - Limitation

26. No person shall obstruct, hinder or in any way interfere with any person designated to enforce this Bylaw.

Right of Entry

27. Upon producing proper identification, a Bylaw Enforcement Officer or the Fire Chief or his or her designates, may, at all reasonable times enter upon and inspect any property to determine if there is a contravention of this Bylaw and to enforce or carry into effect the Bylaw.

Extinguishing any Fire

28. (1) The Fire Chief may direct a person to extinguish any fire where, in his or her opinion, there is a contravention of this Bylaw.
- (2) Where the action taken by such person in extinguishing any such fire pursuant to 29(1) is, in the opinion of the Fire Chief not adequate, the Fire Chief may take such action as he or she considers necessary to control and extinguish the fire.

Cost of Action re Fire

29. (1) Any costs and expenses of any action by the Township with respect to controlling or extinguishing a fire that is caused by or results from the conduct of a person acting contrary to this Bylaw or is caused by or results from a person disobeying or refusing or neglecting to carry out any of the provisions of this Bylaw, are payable by that person to the Township on the date specified in the request for payment and if not paid on the date specified, such costs and expenses together with costs of collection, including legal fees and disbursements, are recoverable as a debt due to the Township by any remedy or procedure available to the Township by law.
- (2) In the event that the Township has paid or is liable to pay the Crown in right of Ontario, represented by the Minister of Natural Resources or any other body for costs and expenses incurred by that body for controlling or extinguishing a fire that is caused by or results from the conduct of a person acting contrary to this Bylaw or that is caused by or results from a person disobeying or refusing or neglecting to carry out, any of the provisions of this Bylaw, such cost and expenses are payable by that person to the Township on the date specified in the request for payment and if not paid, such costs and expenses together with costs of collection, including legal fees and disbursements, are recoverable as a debt due to the Township by any remedy or procedure available to the Township by law.

Civil Action

30. Nothing in this Bylaw affects or shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire.

Offence

31. Every person who contravenes any of the provisions of this Bylaw or fails to comply with a direction to extinguish a fire as set out herein is guilty of an offence and on conviction is liable to a fine as provided in the *Provincial Offences Act, R.S.O. 1990, c.P.33* as amended

Administration

32. The Fire Chief shall be responsible for the administration of this Bylaw and persons who are employed or appointed as Bylaw Enforcement Officers and the Fire Chief or his or her designates are all deemed appointed and entitled to enforce the provisions of this Bylaw.

Severability

33. Should a court of competent jurisdiction declare a part or whole of any provision of this Bylaw to be invalid or of no force and effect, the provision or part is deemed severable from this Bylaw 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 law.

Repeal

34. This Bylaw shall repeal Bylaw 2010-31 in its entirety.

Effective

35. This Bylaw shall come into effect and take force immediately upon final passing.

READ A FIRST AND SECOND TIME THIS 28TH DAY OF SEPTEMBER, 2016.

MAYOR – L. GAMBLE

CLERK – K. SLOSS

READ A THIRD AND FINAL TIME AND PASSED IN OPEN COUNCIL THIS 28TH DAY OF
SEPTEMBER, 2016.

MAYOR – L. GAMBLE

CLERK – K. SLOSS

Table 1: Guidelines for Conducting Safe Agricultural Burn Operations Over 1 Hectare in Size