

# **RURAL MUNICIPALITY OF ST. ANDREWS**

## **BY-LAW NO. 4326**

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ST. ANDREWS TO CONTROL OPEN FIRES.

WHEREAS the Rural Municipality of St. Andrews wishes to provide further containment regulation for the prevention of open fires within the Municipality.

NOW THEREFORE THE COUNCIL of the Rural Municipality of St. Andrews enacts as a By-Law the following:

### **1. DEFINITION**

Authority having jurisdiction (hereinafter referred to as the Authority), means the Chief of the Fire Department of the Rural Municipality of St. Andrews, or in the absence of the Chief of the Fire Department, the Designate, or in his or her absence, the Municipal By-Law Enforcement Officer having jurisdiction as the person or persons for the enforcement of the within By-Law.

Fire Chief means the fire chief of a particular department of the Municipality as determined by Council from time to time.

Nuisance means anything that disturbs the reasonable use of your property or endangers life and health and is offensive and also creates environmental problems.

Other Areas, which includes but not limited to, Agricultural Zones, Commercial Zones, Industrial Zones, Parks & Recreation Zones and Hazard Lands, as in accordance with the current Rural Municipality of St. Andrews Zoning By-Law No. 4066 and all amendments and successor By-Laws related thereto.

Rural Residential (RR), means areas indicated and in accordance with the current Rural Municipality of St. Andrews Zoning By-Law No. 4066 and all amendments and successor By-Laws related thereto.

Suburban Rural (RA), means areas indicated and in accordance with the current Rural Municipality of St. Andrews Zoning By-No. 4066 and all amendments and successor By-Laws related thereto.

Seasonal Residential (SR), means areas indicated and in accordance with the current Rural Municipality of St. Andrews Zoning By- No. 4066 and all amendments and successor By-Laws related thereto.

### **2. POWER OF AUTHORITY**

The Authority may, at all reasonable times, and without the consent of the owner or occupier, enter upon any lands or premises where the Authority has reason to believe that a violation of the within By-Law has occurred or is occurring.

#### **2.1 Inspection and Orders**

The Fire Chief or authority may:

- I. enter at all reasonable times on any property that is subject to the requirements or regulations of this bylaw, to ascertain whether the regulations in this bylaw or directions made under this bylaw are in compliance.
- II. make orders directing the owners or occupiers of property to bring the fire into compliance with this bylaw.
- III. prevent material not properly prepared (i.e. dried) from being added to fire.
- IV. call on the Ministry of Water, Land and Air Protection's Conservation Officers if a person is burning waste in contravention of the Waste Management Act.
- V. order the operator to immediately put the fire out.

### **3. PROHIBITION**

Subject to the provisions of this By-Law, no person shall burn nor place or deposit for the purpose of burning upon any private or public property garbage, or food or animal waste or slops, manure, bedding, straw, dirt, paper, filth, rubbish, raw garbage, grass clippings, leaves or other refuse or excretion in the Rural Municipality of St. Andrews in the areas zoned as “RR” – Rural Residential, “RA” – Suburban Rural, and “SR” – Seasonal residential, as defined in the Rural Municipality of St. Andrews Zoning By-Law 4066 and all amendment and successor By-Laws related thereto. Further, no person shall burn such of the foregoing that would in the opinion of Council, create a public nuisance that would be detrimental to the health or comfort of the residents of the Municipality.

### **4. PERMISSION TO BURN**

Only burning of clean dry woods are permitted in the areas zoned as “RR” – Rural Residential, “RA” – Suburban Rural, and “SR” – Seasonal residential, as defined in the Rural Municipality of St. Andrews Zoning By-Law 4066 and all amendment and successor By-Law related thereto.

#### **4.1 Outdoor Fires for areas defined as Rural Residential (RR), Rural Suburban (RA) and Seasonal Residential (SR)**

If any of these conditions are violated the applicant and/or property owner may be charged under the Manitoba Fire Code, the Environmental Protection Act and/or charged a fee equal to any expenses incurred by the Rural Municipality of St Andrews to respond to a fire or complaint concerning a fire on the property.

- I. Fire Pit or Barbecue Pit not to exceed 24 inches, containers will have sides to contain fire.
- II. Only clean dry wood can be burnt in RR, RA and SR as described above.
- III. All toxic and non-toxic materials prohibited by the Environmental Protection Act including treated, painted or laminated wood, tires, rubber, plastic, asphalt, foam, insulation, cardboard, cloth, leaves, grass, straw and vegetation shall not be burnt at any time.
- IV. Fires must be supervised at all times.
- V. Sufficient water/other fire retardant equipment is readily available to keep fire under control.
- VI. Fire must be extinguished immediately if smoke interferes with neighbors or if ordered by the Fire Chief.

#### **4.2 Outdoor fires for areas defined as all Other Areas**

If any of these conditions are violated the applicant and/or property owner may be charged under the Manitoba Fire Code, the Environmental Protection Act and/or charged a fee equal to any expenses incurred by the Rural Municipality of St Andrews to respond to a fire or complaint concerning a fire on the property.

- I. All toxic and non-toxic materials prohibited by the Environmental Protection Act including treated, painted or laminated wood, tires, rubber, plastic, asphalt, foam, Insulation, cardboard, cloth, leaves, grass, straw and vegetation shall not be burnt, at anytime.
- II. Fires must be supervised at all times.
- III. Sufficient water/other fire retardant equipment is readily available to keep fire under control.
- IV. Fire must be extinguished immediately if smoke interferes with neighbors or if ordered by the Fire Chief.

### **5. PERMIT**

Notwithstanding the foregoing, the Authority may issue a permit permitting fires that would otherwise contravene the provisions of the By-Law subject to such conditions, as the Authority shall, in their sole discretion deem appropriate, subject only to the direction of the Council of the Rural Municipality of St. Andrews.

## **6. ORDERS AND ENFORCEMENT**

- a) If the Authority discovers that any person or persons has contravened the provisions of the within By-Law, or that the persons have not complied or have complied improperly or have complied in part only with the provisions of the By-Law or the safeguards and restrictions of this By-Law or the safeguards and restrictions contained in the permit, and in the opinion of the Authority, a danger, nuisance, or annoyance to other persons or property has resulted, the Authority may make such order to ensure a full and proper compliance with the within By-Law and, in particular, but without limiting the generality of the foregoing, they may:
- i) serve upon the owner, occupier, permit holder or lessee of the property such recommendations as deemed necessary or expedient to correct the contravention or to ensure compliance with the within By-Law or to remove the danger, nuisance, or annoyance referred to in the within By-Law, or
  - ii) serve upon the owner(s), occupier, permit holder, or lessee of the property such orders as they deem necessary or expedient with respect to any of the matters referred to in the within By-Law, or
  - iii) revoke any permit issued pursuant to the provisions of this By-Law.
- b) An order made under the provisions of this By-Law shall be in and shall be directed to the owner, occupier, permit holder, or lessee of the property in respect of which the order is made or to both.
- c) An order made pursuant to the provisions of the within By-Law shall be served by:
- i) delivering or causing it to be delivered to the person to whom it is directed, or
  - ii) posting a copy of the order in a conspicuous place on the property if the person to whom it is directed cannot be found, is not known, or refuses to accept service of the order and service shall be deemed to be made by such posting.

## **7. BURN BANS**

The Municipality may, by resolution, at their discretion, ban **ALL BURNING** (including an **Outdoor Fire** and fires contained within fire pits and solid fuel burning appliances) in the Rural Municipality of St. Andrews if conditions exist where, in the opinion of the municipality, fires are a risk, and such a ban would prevent wildfires from occurring. Bans can also be implemented in cases where air quality is affected causing health and respiratory problems.

## **8. LIABILITY**

In the event of fire resulting from the contravention of this By-Law, and in the event that the Municipality suffers expenses in attending to such fire, the person whose violation of this By-Law is the cause of the fire shall, at the option of Council, be liable to the Municipality for the actual costs that the Municipality incurred in respect of such fire and the Municipality shall be entitled to rely on the provisions of *The Municipal Act* to recover such costs.

## **9. APPEAL**

Any person claiming to be injuriously affected by a decision or order of the Authority, pursuant to the within By-Law may, within (14) fourteen days of being served with such decision or order, appeal the order or decision to the Council of the Rural Municipality of St. Andrews, and the decision of the said Council shall be final and shall not be subject to appeal.

## **10. SEVERABILITY**

In the event that any section or part of the within By-Law is declared to be invalid, it is the intent of the Council of the Rural Municipality of St. Andrews that it would have passed all other portions of the within By-Law independent of the elimination of any such section or part thereof as may be declared invalid.

**11. PENALTY**

- a) Any person or persons who contravene or disobey, or refuses or neglects to obey; any provision of the within By-Law, or any order made pursuant to the provisions of the within By-Law or any condition or restriction attached to a permit; for which no other penalty is herein provided, is guilty of an offence and liable, on summary conviction, to a fine of not less than (\$100.00) one hundred dollars, and in the case of an individual, not greater than (\$1,000.00) one thousand dollars, or in the case of a Corporation, not greater than (\$5,000.00) five thousand dollars.
- b) Every person who sets a fire in contravention of this By-Law or who fails to extinguish a fire once ordered to do so by the Fire Chief or shall, in addition to any penalty provided for herein, be liable to the Rural Municipality of St Andrews for all expenses incurred for the purpose of investigating, controlling and extinguishing any fire set or left to burn as approved by Council, and such expenses may be recovered by court action or in a like manner as municipal taxes.

**12. SEPARATE OFFENCE**

Where the contravention, refusal, neglect, omission or failure as above continues for more than one day, the person involved shall be guilty of a separate offence for each day such act continues.

**13. REPEALS**

This By-Law repeals By-Law No. 4177.

DONE AND PASSED, by the Council of the Rural Municipality of St. Andrews in Council, duly assembled, in the Village of Clandeboye, in Manitoba, this 28<sup>th</sup> day of April, 2020.

RECEIVED first reading this 7<sup>th</sup> day of April, 2020.

RECEIVED seconding reading this 28<sup>th</sup> day of April, 2020.

RECEIVED third reading this 28<sup>th</sup> day of April, 2020.

RURAL MUNICIPALITY OF ST. ANDREWS

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Mayor

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Interim Chief Administrative Officer