



# **RURAL MUNICIPALITY OF DE SALABERRY**

## **BY-LAW NO. 2382-19**

**BEING A BY-LAW OF THE RURAL MUNICIPALITY OF DE SALABERRY FOR THE PREVENTION AND THE CONTROL OF FIRES WITHIN THE MUNICIPALITY.**

**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 De Salaberry (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 pertaining to:

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

**NOW THEREFORE BE IT RESOLVED THAT** the Council of The Rural Municipality of De Salaberry in Council duly assembled, enacts as follows:

### **1. SHORT TITLE**

This By-law be referred to as "The Burning By-Law".

### **2. DEFINITIONS – Where used herein.**

**Authority Having Authority (AHJ)** means the Municipal Council and the duly appointed agents thereof.

**Chief** means the Municipal Fire Chief or designate for The Rural Municipality of De Salaberry.

**CAO** means Chief Administrative Officer or designate of the Municipality.

**Designated employee** means the Fire Chief and/or By-law Enforcement Officer to whom he or she has delegated in writing the authority to enforce or administer all or part of this By-law.

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**Approved receptacle** means an approved fire pit, approved outdoor barbeque, approved outdoor fireplace or approved outdoor warming fire receptacle.

**Open-air fire** means a fire set outdoors for any purpose, including cooking, recreation, generation of heat, the disposal of wood, stubble, or crop residue and for religious or ceremonial purposes.

**Operate**, in relation to a portable barbeque, includes lighting, igniting, maintaining a fire within and cooking on a portable barbeque.

**Person in charge of an open-air fire** includes a person who ignites an open-air fire and the owner, occupier, or person in charge of any premises on which an open-air fire is set.

**Person in charge of a portable barbeque** includes a person who ignites a portable barbeque, the owner of the portable barbeque and the owner, occupier or person in charge of any premises on which a portable barbeque is operated.

**Portable Barbeque** means any appliance manufactured and sold for the purpose of cooking food outdoors and designed to burn propane, natural gas, wood or charcoal briquettes or to use electricity as a heat source.

**Wildfire Season** means the period in each commencing on April 1<sup>st</sup> and ending on November 15<sup>th</sup> or any other period that may be designated.

**3. DELEGATION HAVING AUTHORITY**

That the AHJ, the CAO, or a designated officer of the Rural Municipality of De Salaberry be appointed as Officers for enforcing provincial statutes, regulations as well as this By-law.

**4. INSPECTIONS AND ORDERS**

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

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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. PROHIBITIONS**

- a) No person may set any open-air fire and the owner, occupier, or person in charge of any premises may not permit any open-air fire to be set or to remain lit on any premises of which he or she is the owner, occupier, or person in charge, unless the fire meets the requirements of this By-law and has obtained a burn permit.
- b) No burning shall take place within the boundaries of the LUD of St Malo, or the Communities of Otterburne, Carey, or Dufrost unless it is within an approved fire pit, outdoor barbeque, portable barbeque, warming receptacle, or outdoor fire place as outlined in this by-law;
- c) No person shall burn or place or deposit for the purposes 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, and vegetation.

**6. RESPONSIBILITIES**

- a.) 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*.
- b.) Authorization to conduct outdoor fire, brush and/or grass 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.
- c.) 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.
- d.) 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.
- e.) No person shall start an outdoor fire unless all precautions are taken to ensure

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that the fire can be kept under control, and only when weather conditions are conducive to preventing a fire burning out of control.

- f.) No person shall cause an outdoor fire to be started to clear land or burn debris; burn crop, stubble, or grass; unless the property on which the fire is started is 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).
  
- g.) Any person who shall cause an outdoor fire to clear land or burn debris; burn crop, stubble, or grass shall notify the R.M. of De Salaberry Fire Department of their intent prior to burning.
  
- h.) 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.
  
- i.) 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.
  
- j.) All fires must be extinguished when unsupervised.

**7. RULES REGARDING ALL OPEN FIRES**

A 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) smoke which causes a nuisance or irritation to people on adjacent properties;
  - (ii) reduced visibility on any highway or road;
  - (iii) 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;

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- (f) residents must obtain an open fire burn permit prior to burning;
- (g) residents are allowed to burn overburden provided it is done within the confines of this by-law and done with caution and care;

**8. RULES REGARDING FIRE RECEPTACLES**

A person in charge of an open-air fire on the grounds of a property throughout the Rural Municipality of De Salaberry must ensure that:

- (a) the fire is maintained within an approved receptacle;
- (b) the fire is maintained on a flat non-combustible base and at a minimum of 3 metres (10 feet), as measured from the nearest edge of the fire, from any combustible buildings or structures, combustible fences, trees, and overhead wires;
- (c) only clean, dry, unpainted, and untreated wood is burned and no grass, leaves, brush or tree pruning's are burned in the fire.

**9. REQUIREMENTS FOR APPROVED RECEPTICLES**

**(a) FIRE PITS**

An approved fire pit must:

- 1) be enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other non-combustible materials acceptable to the Chief;
- 2) have a spark arrestor, grill, or mesh and constructed of a non-combustible material, which is used to cover the entire area of the fire pit opening; and
- 3) not be used for commercial or industrial applications.
- 4) Must not exceed 48" in diameter.

**(b) OUTDOOR BARBEQUES**

An approved outdoor barbeque must:

- 1) be constructed of masonry, concrete, heavy gauge metal or other non-combustible materials acceptable to the Chief;
- 2) be enclosed on all sides, except for any opening completely covered by a removable, non-combustible spark arrestor, grille, or mesh;

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- 3) not be used for commercial or industrial applications.

**(c) OUTDOOR FIREPLACES**

An approved outdoor fireplace must:

- 1) be constructed of masonry, concrete, heavy gauge metal or mesh or other non-combustible materials acceptable to the Chief;
- 2) have a chimney designed and constructed as a proportional and integral part of the fireplace to ensure that an adequate draft is created;
- 3) have its chimney opening entirely covered by a non-combustible spark arrestor, grille, or mesh;
- 4) have a side opening to the fire chamber which does not exceed 0.84 square meters (9 square feet) in area;
- 5) has its side opening entirely covered by a non-combustible spark arrestor, grille or mesh; and
- 6) not used for commercial or industrial applications.

**(d) OUTDOOR WARMING RECEPTACLES**

An approved outdoor warming fire receptacle must be a metal receptacle in good repair that has a maximum capacity of 205 litres (45 gallons). It is strongly recommended that all openings be entirely covered by removable, non-combustible spark arrestors, grilles, or mesh with openings no larger than 12 mm (½ inch).

**10. OBLIGATIONS OF PERSON INCHARGE OF PORTABLE BARBEQUE**

A person in charge of a portable barbeque must ensure that it is:

- (a) operated only out of doors in a well, ventilated area;
- (b) operated and maintained in accordance with the manufacturer's instructions;
- (c) not operated within 1 metre (39"), or such greater distance as may be recommended by the manufacturer of the portable barbeque, of combustible materials; and
- (c) not left unattended when lit.

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**11. OPERATION OF PORTABLE BARBEQUE**

No one may operate a portable barbeque within 20 feet of any building unless it:

- (a) is located in the yard of a single-family dwelling or two-family dwelling;
- (b) uses electricity or natural gas as a heat source; or
- (c) uses propane as fuel and equipped with a Quick Connect Coupling Valve (Q.C.C.1) and an Overfill Protection Device (O.P.D.).

**12. OPERATION OF PORTABLE BARBEQUE**

Notwithstanding Sections 14 & 15, no one may operate a portable barbeque that uses solid fuel on a balcony, patio, or deck of a multiple family dwelling.

**13. STORAGE OF PROPANE TANKS**

The owner of a propane storage cylinder designed for use on a portable barbeque and the occupant of the premises in which the cylinder is located must ensure that, whether attached to a portable barbeque or not, the cylinder is:

- (a) maintained in an upright position at all times;
- (b) shut off at the valve when not in use;
- (c) not stored in a vehicle or below grade; and
- (d) unless attached to a portable barbeque, not stored within 2 metres (6.5 feet) of a portable barbeque.

**14. STORAGE OF PROPANE CYLINDERS ON BALCONIES**

The owner of a propane storage cylinder designed for use on a portable barbecue and the occupant of premises must ensure that a propane storage cylinder designed for use on a portable barbecue is only stored on a balcony if:

- (a) the balcony is not enclosed by screen or glass;

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- (b) no more than two 20 pound tanks are to be stored on any balcony, including any tank attached to a portable barbecue and second tank to be stored as far from the barbecue as possible;
- (c) tank valves are not nearer than 1 metre (39 inches) from any door or window that is lower than the valve.

**15. PERMIT AUTHORIZING VARIATIONS OF GENERAL RULES**

A designated employee may issue a permit authorizing a fire that does not strictly comply with this by-law where the designated employee is satisfied that doing so will not expose people or property to undue risk.

**16. BURNING BAN**

- (a) The CAO, upon the recommendation of the Chief may ban **ANY or 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.
- (b) Fire restrictions will be applied in a tiered format:
  - Level 1 – Fires are allowed in approved receptacles. Open air fires are allowed however any person who wishes to cause an open-air fire shall notify the RM of De Salaberry of their intent and obtain a burn permit.
  - Level 2 – Fire are only allowed in approved receptacles. NO open-air fires are allowed.
  - Level 3 – NO fires of any type are allowed.
- (c) The following sources of information will be used in determining the fire restriction level.
  - Government of Manitoba Fire Hazard Map
  - Natural Resources Wildland Fire Information System
  - The Manitoba Fire Conditions Calculator, and
  - Historical Analysis
- (d) The RM of De Salaberry will keep residents informed via the RM Website (<http://www.remsalaberry.mb.ca>), Fire Department Facebook pages and by posting signs in the community.

**17. OFFENSE AND PENALTIES**

- (a) It is an offense to contravene any provisions of this By-law. Any conviction of an offence is subject to a penalty of \$1,000.00. Where any offence continues for more than one day, a person is guilty of a separate offence for each day the offence continues.
- (b) In the event the Fire Department is called out to extinguish outdoor fires as a



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result of non-compliance to this by-law, all costs incurred by the Municipality shall be assessed to the property owner as identified on the Municipality's tax roll;

- (c) All fines and costs imposed on a prosecution under this By-law, are a debt owed by the person who set a fire and the owner of the property on which the fire was located, to the Rural Municipality of De Salaberry and may be recovered by the Municipality in a court of competent jurisdiction or may be collected by the Municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*.

**18. REPEAL**

- (a) That By-law No. 2321-13 of The Rural Municipality of De Salaberry is hereby repealed.
- (b) This By-law shall come into force and take effect on the passing thereof.

**DONE and PASSED by the Council of The Rural Municipality of De Salaberry in regular session assembled this 28th day of May, A.D. 2019.**

"original signed"

\_\_\_\_\_  
Darrel Cure  
Reeve

"original signed"

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Melissa Groening, CMMA  
Chief Administrative Officer

Read a first time this 14<sup>th</sup> day of May, 2019.  
Read a second time this 28<sup>th</sup> day of May, 2019.  
Read a third time this 28<sup>th</sup> day of May, 2019.