

# THE CORPORATION OF THE NATION MUNICIPALITY

## BY-LAW NUMBER NO<sup>o</sup> 84-2004

Being a by-law to regulate the setting of fires in the open air within The Nation Municipality.

---

**WHEREAS** Section 129 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended provides that the Council of a local municipality may pass by-laws to prohibiting and regulating public nuisances; and

**WHEREAS** Section 7.1 (1) (b) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended, provides that a council of a municipality may pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set; and

**WHEREAS**, the Council of the Corporation of The Nation Municipality deems it necessary for the health, safety and welfare of the inhabitants of The Nation Municipality to enact a by-law providing for regulation of the setting of open air fires within The Nation Municipality; now

**THEREFORE** the Council of The Nation Municipality enacts as follows:

### SHORT TITLE

1. This by-law may be cited as the "Open Air Burning By-Law".

### DEFINITIONS

2. In this by-law:
  - (a) "**Municipality**" shall mean The Nation Municipality;
  - (b) "**Owner**" shall mean the registered owner of the land and includes a lessee, mortgagee in possession, and the person in charge of the property;
  - (c) "**Corporation**" shall mean the Corporation of The Nation Municipality;
  - (d) "**Municipal Law Enforcement Officer**" shall mean the Municipal Law Enforcement Officer appointed by the Council of the Corporation of The Nation Municipality;

- (e) **“Permit Holder”** shall mean the person to whom a permit was issued;
- (f) **“Fire Chief”** shall mean the Chief of the Fire Department, a Sector Chief, a Station Chief, or his or her authorized designate;
- (g) **“Fire Department”** shall mean the Fire Department providing service for the Corporation of The Nation Municipality;
- (h) **“Woodland”** shall mean any treed property exceeding a one acre area but shall not include commercial tree nursery operations.

### GENERAL REQUIREMENTS

- 3. No person shall, unless otherwise authorized by the provisions of this or any other by-law of the Corporation, set, or permit to be set, a fire in the open air without first obtaining a fire permit as provided in this by-law.
- 4. No person shall set, or permit to be set, a fire in the open air between one half hour before sunset and one half hour after sunrise.
- 5. No person shall set, or permit to be set, a fire in the open air for the purpose of burning grass.
- 6. To obtain a fire permit the owner shall file an application in writing by completing a prescribed form available in the office of the Municipal Law Enforcement Officer with the fee as indicated in Schedule “A” of this By-Law.
- 7. The permit may, at the discretion of the Municipal Law Enforcement Officer or Fire Chief, designate any further terms or conditions of permit deemed necessary.
- 8. Section 3 of this by-law shall not apply to the following persons setting fires:
  - a) for the purpose of cooking;
  - b) having a flame base of less than 1 square meter;
  - c) in a 204 liter or less metal container covered by a wire mesh.
- 9. No fire permit shall be issued for any period of time exceeding 30 days with the following exception.
  - (a) Commercial tree nursery operations may be issued a permit for one calendar year to burn cull and diseased trees and branches.
- 10. No permit shall be issued during dry periods as designated by the Fire Chief or the Ministry of Natural Resources.

11. No permit shall be issued unless the Municipal Law Enforcement Officer is satisfied that the fire will be a minimum of 50 meters from the nearest neighbour's dwelling.
12. No fire permit shall be issued unless the Municipal Law Enforcement Officer is satisfied that the fire will be a minimum of 150 meters from woodlands except during snow covered ground conditions.
13. Despite any other provisions of this by-law, if upon inspection of a fire the Municipal Law Enforcement Officer or the Fire Chief is satisfied the fire poses a danger to the health or safety of any person or property the Officer or Chief shall cancel or suspend the fire permit and order the fire extinguished.
14. No person shall burn petroleum products, plastics, rubber or any other material that will cause excessive smoke or noxious fumes.
15. The area of burning must be restricted in order to enable the permit holder to extinguish the fire immediately if necessary due to a change in weather or other conditions or if so ordered by the Municipal Law Enforcement Officer or Fire Chief.
16. No person shall be deemed to have been issued a permit until the Municipal Law Enforcement Officer has issued the permit. An application for a permit does not constitute a permit.
17. No person shall give false or incorrect information for the purposes of obtaining a fire permit.
18. No person shall obstruct, hinder or interfere with the Municipal Law Enforcement Officer or Fire Chief in the lawful performance of his or her duties.
19. No permit holder shall:
  - (a) fail or refuse to produce the permit upon demand;
  - (b) burn any material other than those for which the permit was issued;
  - (c) fail to supervise the fire continuously from ignition until completely extinguished;
  - (d) refuse to extinguish the fire when ordered to do so by the Fire Chief or Municipal Law Enforcement Officer;
  - (e) fail to comply with any conditions on the Fire Permit.

**ADMINISTRATION AND ENFORCEMENT**

20. The provisions of this By-Law shall be enforced by the Municipal Law Enforcement Officer

- 21.** The Municipal Law Enforcement Officer is hereby authorized to:
- (a) issue permits as provided in this by-law;
  - (b) sign all permits on behalf of the Corporation;
  - (c) limit the time for which a permit is issued;
  - (d) undertake any technical investigation or inspection for the purposes of administering this by-law.
- 22.** The Municipal Law Enforcement Officer or Fire Chief may:
- (a) demand the fire permit for inspection from any permit holder;
  - (b) inspect any premises for which a fire permit has been issued;
  - (c) enter at all reasonable times upon any property in order to ascertain whether the provisions of this by-law are obeyed and to enforce or carry into effect this by-law.

### **PENALTIES**

- 23.** (1) If any person or permit holder contravenes any provisions of this by-law, the Fire Department may enter upon any lands to extinguish the fire and the cost of extinguishing the fire shall be at the expense of the owner.
- (2) When the Municipal Law Enforcement Officer or Fire Department causes the work to be done pursuant to subsection (1), the Corporation shall have a lien for the cost of extinguishing the fire and for an administrative fee of ten (10%) percent and such total amount together with the administrative fee shall be added to the collector's roll of taxes to be collected and shall be subject to the same penalty and interest charges as real property taxes and shall be collected in like manner and with the same remedies as real property taxes.
- (3) Before the certificate of the clerk of the Corporation is issued under subsection (2), an interim certificate shall be delivered to the owner of the property that is subject to the lien, as well as to all prior mortgagees or other encumbrancers and the affected owner, mortgagees or other encumbrancers shall have two (2) weeks from the date of receipt of the interim certificate to appeal the amount shown thereon to the council of the Corporation.
- 24.** Every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction thereof shall forfeit, and pay a penalty for each such offence and every such penalty shall be recoverable under the Provincial Offences Act, R.S.O. 1990, chapter P.33 and amendments thereto.
- 25.** When a person has been convicted of an offence under this by-law any court of competent jurisdiction thereafter, may, in addition to any other

penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.

- 26. If a court of competent jurisdiction should declare any paragraph or part of a paragraph of this By-Law to be invalid or ultra vires such paragraph or part of a paragraph shall not be construed as having persuaded or influenced Council to pass the remainder of this By-Law and it is hereby declared that the remainder of this By-Law shall be valid and remain in force.
- 27. This by-law is not to be construed at any time in such a fashion as to hold the corporation or its officers liable for failing to ensure that persons comply with the provisions of this by-law.
- 28. That By-Law 52-98 of The Nation Municipality is hereby repealed.
- 29. This by-law shall come into force and take effect on the day of its passing.

**READ A FIRST, SECOND AND DULY PASSED UPON THIRD READING THIS 8<sup>th</sup> DAY OF NOVEMBER, 2004.**

---

Denis Pommerville  
Mayor

---

Marielle Dupuis  
Deputy-Clerk

**Schedule "A"  
Fees**

Fire Permit for fires to be set during the months of January, February and March	no charge
Fire Permit for all other months	\$25.00