Municipality of Five Rivers

By-Law C.01.01

Fire Protection and Prevention

1. AUTHORITY. The Council of Fiver Rivers, under the authority vested in it by section 17 of the *Local Governance Act*, enacts this by-law for fire protection and prevention.

2. GOVERNING LEGISLATION. This by-law is subject to the following provincial regulations:

   - Regulation F-13, *Fire Prevention Act*
   - Regulation 82-20 under the Fire Prevention Act (O.C. 82-99), *Fire Prevention and Inspection Regulation*
   - Regulation 82-239 under the Fire Prevention Act (O.C. 82-1022), *Fire Extinguisher Servicing Regulation*

3. PURPOSE. To protect people and property from harm by establishing standards and penalties for fire safety

4. APPLICATION. This by-law applies to all people residing within the boundaries of Five Rivers.

5. DEFINITIONS.

   5.1. "Automatic alarm system" means a system that has sensors to detect heat, smoke, and/or carbon monoxide and produces visual/audible signals (flashing lights, sirens, horns, etc.) to alert occupants. It may also include a communication system to notify the fire department and other remote persons or groups.

   5.2. "Clerk" means the Clerk of Five Rivers as appointed under Section 71 of the Local Governance Act.

   5.3. "Commercial fireworks" are outdoor, high hazard fireworks for professional use at events such as Victoria Day, Canada Day, and other public events. The Government of Canada refers to commercial fireworks in federal regulations as "display fireworks" under Part 18, Sections 410 to 449 of the Explosive Regulations, 2013 (SOR/2013-211) of the Federal Explosives Act. Examples of commercial fireworks (or display fireworks) include but are not limited to aerial shells, cakes, barrages, waterfalls, lances, set pieces and wheels, rockets, serpents, tourbillions, maroons, bouquets, bombardos, and waterfalls. According to Canadian federal law, commercial fireworks are classified under the Explosives Regulations as Type F.2. In Canada, a person requires a special operator license to use a commercial firework. In addition, the federal government has established laws to govern the storage, sale, and purchase of commercial fireworks.

   5.4. "Consumer fireworks" are designed for outdoor recreational use by members of the public. The Government of Canada defines a consumer firework as an outdoor, low hazard, recreational firework as described in Part 16, Sections 354 to 359 of the Explosive Regulations, 2013 (SOR/2013-211) of the Federal Explosives Act, and includes but is not limited to roman sparklers. fountains, wheels, volcanoes, mines, and snakes.

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5.5. "Council" means the duly elected Mayor and Councillors of Five Rivers.

5.6. "Departments" means the two Fire Departments of Five Rivers and its members: the Rexton Fire Department and the Beersville/Harcourt Fire Department.

5.7. "Fiberboard" refers to the engineered wood that is used as building material. It is made by compressing wood or other plant fibers into boards. Fiberboard can be low density, medium density, or high density. Low density fiberboard is sometimes called particleboard. Plywood is not a type of fiberboard, as it is made of thin sheets of wood, not wood fiber or particles. In addition to wood and plant fibers, fiberboard contains wax and formaldehyde resins to bind the fibers together that are toxic when burned.

5.8. "Fire Chief" means the leader of each Fire Department in Five Rivers, as elected by the Department Members, and as recognized by Council. The Fire Chief may designate any Department Member to exercise the Fire Chief's authority under this by-law for the purpose of fire protection and/or prevention.

5.9. "Fire Marshal" means the Fire Marshal appointed under subsection 2(1) of the *Fire Prevention Act (F-13)* and includes any person authorized by the fire marshal under subsection 4(4.1) of the *Fire Prevention Act* to act on the Fire Marshal's behalf. Under section 6(1) of the *Fire Prevention Act (F-13),* the Fire Marshal may appoint a Fire Department Chief or another member of a fire department as a local assistant to assist the Marshal in carrying out the provisions of this by-law.

5.10. "Member" means any officer or volunteer firefighter of the two (2) Fire Departments of Five Rivers.

5.11. "Municipality" refers to the municipality of Five Rivers, which is comprised of the former village of Rexton, parts of the former Local Service Districts (LSDs) Harcourt and Weldford, and all of the former LSD Richibucto Parish.

5.12. "Non-residential zone" refers to a property that does not meet the definition of a residential property under the zoning by-laws of Five Rivers. Moreover, a non-residential zone is one that has been approved by the Municipality for institutional, commercial, or industrial uses, including farms and woodlots, or one that has been approved as an uninhabited open space or rural area.

5.13. "Nuisance" means the causing of any smoke by or from any fire permitted or allowed under this by-law that disturbs or frustrates surrounding property owners with respect to the enjoyment of their property.

5.14. "Outdoor open-air fire" means any fire that is burning freely or that can spread freely because it was ignited outside a building on or above ground and is not contained in or by a non-flammable and noncombustible structure. Outdoor open-air fires are normally used to remove organic material from a property. An example of an outdoor open-air fire is a brush fire set on the ground.

5.15. "Recreational fire" means a small, controlled, temporary, and attended outdoor fire that is fueled by wood, charcoal, natural gas, or propane, and that is located on a non-flammable and non-combustible base or contained by a non-flammable and non-combustible structure such as on outdoor burning appliance with a spark arrestor screen. Recreational fires are normally used for cooking, warmth, providing light, sport, ceremony, or personal enjoyment. Examples of recreational fires include campfires as well as fires set in BBQs, fireplaces, fire pits, outdoor stoves, and metal burn barrels.

5.16. "Residential zone" refers to a property that meets the definition of a residential property under the zoning by-laws of Five Rivers. Moreover, a residential zone is one that the Municipality and the province have

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approved for human habitation that can take the form of single-family dwellings (such as a single detached home) or multi-family dwellings (such as an apartment building).

6. FIRE FIGHTING AND FIRE PROTECTION.

6.1. During a fire, the Fire Chief is authorized, in the interest of combating the fire or preventing injury to persons or damage to property, to take any of the following actions:

6.1.1. To place or cause to be placed a rope or other barrier across any street or public place to indicate the area from which persons or vehicles are prohibited, except for the passage of fire, emergency, or other authorized personnel.

6.1.2. To secure doors and windows and take other precautionary measures to protect persons and property directly involved or threatened by fire.

6.1.3. To prohibit any person other than Department Members from riding on fire apparatus, entering buildings involved with or threatened by fire, handling fire hose lines or other firefighting equipment and apparatus, or acting in any way that may endanger the safety of any person or otherwise hamper the combating of a fire.

6.2. No person shall disobey an order or direction given by the Fire Chief or any Department Member while performing their duties at a fire.

6.3. No person shall interfere with or obstruct any Department Member while performing their duties at a fire.

6.4. The owner or any occupant of a building, or any part thereof, that is on fire or threatened by fire, shall not prevent a Department Member from entering the building or parts thereof.

6.5. No Fire Department vehicle shall be released or loaned on a temporary or short-term basis to another Fire Department, agency, or person without the written authorization of the Fire Chief, who shall inform the CAO of the release or loan in writing at first opportunity.

7. FIRE ALARMS.

7.1. Every owner of a building in which a fire alarm system is installed shall be responsible to ensure that the fire alarm system is well maintained, regularly tested, properly powered, and in working order.

7.2. Every owner of a building in which a fire alarm system is installed may be held responsible for false alarms generated in that building, at the discretion of the CAO.

7.3. If the Fire Department takes any action to respond to a false alarm, the owner may be responsible to pay a fine, at the discretion of the CAO.

7.4. If the Fire Department has been unable to contact the owner or occupier of a building in which an alarm system has been activated for thirty (30) minutes, the Fire Chief may contact a qualified service person to restore the alarm system to normal operating conditions. All costs to restore the system shall be the responsibility of the owner or occupier.

7.5. If the owner or occupier of a building in which an alarm system has been activated cannot reset the system within thirty (30) minutes, the Fire Chief may contact a qualified service person to restore the

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alarm system to normal operating conditions. All costs to restore the system shall be the responsibility of the owner or occupier of the building.

7.6. If the Fire Department has been unable to contact the owner or occupier of a building in which an automatic alarm system has been shut-down or disabled, the Fire Chief may contact a qualified service person to restore the alarm system to normal operating conditions. All costs to restore the system shall be the responsibility of the owner or occupier of the building.

7.7. If the Fire Department has identified an inoperable automatic alarm system, the Fire Chief may take necessary actions or measures to protect the building and any persons at risk, including, but not limited to, evacuating the building, or requiring the posting of a fire watch.

7.8. The owner of a property containing an automatic alarm system, where there has been more than one (1) false alarm within a 30-day period, is guilty of committing an offence under this by-law.

8. FIRE PREVENTION.

8.1. The Fire Marshal, or any person duly authorized by the Fire Marshal, may enforce the provisions of the Fire Prevention Act, R.S.N.B. 1973, and the regulations made thereunder.

8.2. Any person duly authorized by the Fire Marshal shall have the same powers under the same conditions as are conferred upon the Fire Marshal under sections 11, 12, and 16 of the Fire Prevention Act, R.S.N.B. 1973 by provincial legislation, amendments thereto, and the regulations made thereunder.

8.3. The Fire Marshal, or any person duly authorized by the Fire Marshal, may enter any building or premises within Five Rivers to inspect it for fire prevention or to investigate the cause or origin of a fire.

8.4. No person shall prevent or obstruct the Fire Marshal from entering any building or premises for the purpose of conducting a fire prevention inspection.

8.5. When the Fire Marshal finds a building or other structure, which, for want of proper repair or by reason of age and dilapidated condition or for any cause, is especially liable to fire, or which is so situated as to endanger other buildings or property or so occupied that fire would endanger persons or property therein or that exits from the building or buildings are inadequate or improperly used, or that there are in or upon any building or premises combustible or explosive material or conditions dangerous to the safety of persons, buildings, or premises, the Fire Marshal may order the owner or occupant to:

8.5.1. Remove or demolish such a building or make repairs or alterations as he or she deems necessary.

8.5.2. Remove such combustible or explosive material that may constitute a fire hazard.

8.5.3. Remove or repair anything that may constitute a fire hazard.

8.5.4. Install safeguards by way of fire extinguishers, fire alarms, and other devices and equipment, as well as such fire escapes and exit doors as he or she deems necessary to afford ample exit facilities in the event of fire or an alarm of fire.

8.5.5. Conduct such drills and evacuation procedures as necessary to save lives by an orderly evacuation of people at the time of emergency.

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8.6. When an existing building has been developed or is being developed to create a dwelling unit or units above the ground floor, the entire building shall be in accordance with the National Building Code of Canada (2020) or such more recent code as in effect within Five Rivers. If it is impractical to bring the entire structure into compliance with the National Building Code of Canada, there shall be two (2) exits that provide safe, continuous, and unobstructed passage from the dwelling units to the outside at street or ground level. Such exits shall comply with all laws as well as with the National Building Code of Canada and shall be to the satisfaction of the Fire Marshal.

8.7. Where, in the opinion of the Fire Marshal, any electrical installation, apparatus, or equipment in or upon any building or premises is in a condition to be especially likely to cause fire and to be dangerous to the safety of persons or property, the Fire Marshal may in writing order any person or organization supplying electricity to discontinue its supply to such building or premises until the condition of electrical installation, apparatus, or equipment is remedied.

8.8. Where any appliance, apparatus, or place in or upon any building or premises used or intended to be used to supply fire or heat, and, in the opinion of the Fire Marshal, the use of the appliance, apparatus, or place for that purpose may be dangerous to persons or property, the Fire Marshal may order in writing that no fire be lighted or maintained in the appliance, apparatus, or place until the dangerous conditions have been remedied.

8.9. Where, in any place of assembly or in any building or premises used as sleeping accommodations or as a restaurant, there is, in the opinion of the Fire Marshal, a fire hazard that is dangerous to the safety of persons, the Fire Marshal may order that the public not be admitted thereto until the fire hazard has been remedied to the Fire Marshal's satisfaction.

8.10. Where, in any place or assembly or in any building or premises used as sleeping accommodations or as a restaurant, there is, in the opinion of the Fire Marshal, danger to the safety of the public by reason due to inadequate exits, or the presence of flammable material or any other reasons, the Fire Marshal may order that the number of persons to be permitted to that place at any one time may not exceed a number stated in the order.

8.11. When, in the opinion of the Fire Marshal, the smoking of pipes, cigars or cigarettes in a place of assembly or in a building or structure containing a place of assembly constitutes a fire hazard dangerous to the safety of persons he may order that smoking shall not be permitted in the place of assembly or in the building or structure containing it, or shall only be permitted in such rooms or portions of the place of assembly, building or structure as shall be designated in the order.

8.12. Where there is no occupier of the building or premises in respect of which an order is made, and the owner is absent from the province or cannot be found within the province, the Fire Marshal may himself or herself carry out an order involving an expenditure of One Thousand Dollars ($1000) and, with the approval of the Minister of Local Government or Municipal Affairs, any other order.

9. COMPLIANCE WITH BURN BANS. All fires, including recreational or outdoor open-air fires, whether permitted or not, shall comply strictly with all of the rules, restrictions, and orders specified by the province of New Brunswick. For more information, go to the Fire Watch website[1] or call 1-866-458-8080.

[1] https://www.gnb.ca/en/topic/laws-safety/emergency-preparedness-alerts/fire-watch.html

10. NO BURN MATERIALS AND SUBSTANCES. The following substances and materials are prohibited to be burned in a recreational fire or an outdoor open-air fire:

    10.1. Rubber (including tires), plastics, vinyl, oil, paint. and other petroleum products.

    10.2. Fire accelerants, aerosols, and any type of pressured cylinder.

    10.3. Fiberboard, furniture, or painted or treated wood (such as pressure-treated lumber).

    10.4. Garbage, bottles, cans, rags, manure, sewage, or other types of household or industrial waste.

11. RECREATIONAL FIRES. The following regulations apply to recreational fires.

    11.1. While a recreational fire burns, at least one person who is eighteen (18) years or older shall (a) attend the fire at all times, (b) have a direct and accessible source of water adequate to control the fire, and (c) notify the Fire Department immediately if the recreational fire threatens to burn out of control.

    11.2. The fire shall not exceed 1.5 meters (or 5 feet) in diameter.

    11.3. The fire shall not exceed 1.0 meters (or 3.25 feet) in height.

    11.4. The fire shall provide a minimum of 4.5 meters (or 15 feet) clearance from all buildings and combustible materials, including forestland.

    11.5. The smoke and flame from the fire shall not nuisance threaten harm to nearby people or property.

    11.6. At all times, the fire shall be in a secure and contained area.

    11.7. The fire shall be completely extinguished before the recreational fire area is vacated.

    11.8. A means to fully extinguish the fire shall be readily available and in working order.

    11.9. If wind and other weather conditions threaten the owner's control of the fire, the owner shall immediately and fully extinguish the fire.

    11.10. Fire appliances and structures such as fire pits and fireplaces shall have enclosed sides made from fire bricks, concrete blocks, heavy gauge metal, stone, or other non-combustible materials.

    11.11. If the Fire Chief has a reasonable basis to consider a recreational fire to be unsafe or a public nuisance, the Chief may inspect the fire and take action to extinguish the fire.

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12. OUTDOOR OPEN-AIR FIRES (ALL PROPERTIES). The following regulations apply to all outdoor open-air fires, regardless of their location.

    12.1. While an outdoor open-air fire burns, at least one person who is eighteen (18) years or older shall (a) attend the fire at all times, (b) have a direct and accessible source of water adequate to control the fire, and (c) notify the Fire Department immediately if the outdoor open-air fire threatens to burn out of control.

    12.2. The fire shall not be ignited before 8:00 am and shall be extinguished in full no later than 8:00 pm.

    12.3. No more than one (1) outdoor open-air shall be permitted on one property at one time.

    12.4. The fire shall be conducted to not disturb or cause a nuisance to others.

    12.5. If the Fire Chief has a reasonable basis to consider a recreational fire to be unsafe or a public nuisance, the Chief may inspect the fire and take action to extinguish the fire.

13. OUTDOOR OPEN-AIR FIRES (RESIDENTIAL PROPERTIES). The following regulations apply to outdoor open-air fires on a residential property (a property zoned and/or used for living or dwelling purposes).

    13.1. The fire shall not exceed 2.0 meters (or 6.5 feet) in diameter or 1.5 meters (or 5 feet) in height.

    13.2. The fire shall be 10 meters (or 32 feet) or more from any neighboring property or flammable or combustible material, including hedges, shrubs, and trees.

    13.3. No more than two (2) fires can burn at any one time on one property.

    13.4. The burning of brush, leaves, garden or yard waste, waste wood, and other organic material is allowed between January 2 and April 30 only.

    13.5. Grass fires are <u>not</u> permitted.

14. OUTDOOR OPEN-AIR FIRES (NON-RESIDENTIAL PROPERTIES). The following regulations apply to outdoor open-air fires on residential properties on a non-residential property (a property zoned as institutional, commercial, or industrial and used for a store, an office, a factory, a warehouse, a garage, a parking lot, a restaurant, a farm, a woodlot, a school, a hospital, a health clinic, a sports facility, a church, a government agency or department, and so on).

    14.1. The fire shall not exceed 3.0 meters (or 10 feet) in diameter and 2.0 meters (or 6.5 feet) in height.

    14.2. The fire shall be 30 meters (or 100 feet) or more from any neighboring property or flammable or combustible material, including forestland, hedges, shrubs, and trees.

    14.3. The burning of grass, brush, leaves, garden or yard waste, waste wood, and other organic material is allowed between January 2 and April 30 only.

    14.4. The burning of grass must follow the regulations for a Category 4 fire as defined by the province of New Brunswick.

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15. CONSUMER FIREWORKS.

15.1. Consumer fireworks may be used without a permit.

15.2. Consumer fireworks may not be used during a provincial burn ban.

15.3. Consumer fireworks may only be set off:

15.3.1. between 7 pm and 9 pm on Monday, Tuesday, Wednesday, Thursday, and Sunday;

15.3.2. between 7 pm and 11 pm on Friday and Saturday.

15.4. Consumer fireworks shall be set off at least 30 meters (or 100 feet) or more from any neighboring property.

15.5. Active consumer fireworks shall not extend onto or over a neighboring property or a municipal property.

15.6. Consumer fireworks shall not be set off on a property that borders a property with livestock (cows, goats, horses, chickens, etc.).

15.7. Any person who sets off consumer fireworks shall comply with all municipal by-laws respecting public nuisances, noise, and civil order.

15.8. Any person who sets off consumer fireworks shall follow the manufacturer's requirements for the discharge of the fireworks.

15.9. Any person who sets off consumer fireworks shall have fully operational fire extinguishing equipment that is ready for use, and that the person knows how to use, where the fireworks shall be detonated.

15.10. No person shall store, handle, or set off consumer fireworks in an unsafe manner or in a manner that creates a nuisance, considering the noise, danger from fire and explosion, and risk of death, injury, and damage to property inherent in the storage, handling, or use of fireworks.

15.11. The Fire Marshal may seize and destroy any consumer fireworks had, kept, or used in violation of this by-law.

16. COMMERCIAL FIREWORKS.

16.1. Only a licensed commercial fireworks operator under the authority of the Province of New Brunswick may possess or set fire to, discharge, or cause to explode a commercial firework.

16.2. A licensed commercial fireworks operator shall ensure that the fireworks are used in conformance with the current Fireworks Display Manual as prepared and distributed by Natural Resources Canada.

16.3. The handling, storage and use of commercial fireworks shall conform with the Explosives Act and its Regulations, the National Fire Code, and the Fire Prevention Act.

16.4. The Fire Marshal may seize and destroy any commercial fireworks had or kept in contravention of this by-law.

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17. FLAMMABLE LIQUIDS AND EXPLOSIVE MATERIALS.

17.1. No person is permitted to store gasoline, oil, naphtha, liquified petroleum gases, or other petroleum products except in facilities meeting the standards contained in the National Building Code, latest edition.

17.2. The establishing of self-service facilities for the dispensing of flammable liquids shall be in accordance with the requirements of the Fire Prevention Act, the latest edition of the National Fire Code of Canada, and the latest edition of the National Building Code.

17.3. No flammable liquids, combustible liquids, or explosive materials dangerous to the safety of persons, buildings, or premises shall be stored or placed for sale in any building or upon any land within Five Rivers without establishing compliance with the provisions of the Fire Prevention Act.

17.4. No person, firm, or corporation may keep, store, or stock flammable liquids, combustible liquids, dynamite, fuse caps, blasting powder, or other explosive materials that are dangerous to the safety of persons, buildings, or premises within Five Rivers, excepting small arms ammunition, without a permit from the Fire Marshal.

17.5. No person within Five Rivers shall set on fire any combustible matter or other refuse outside any building.

18. CONFLICT OF AUTHORITY.

18.1. In the event of a conflict of authority between the Fire Marshal and an official appointed under any other Act of the Legislature or by the municipality, the authority of the Fire Marshal prevails.

19. PENALTIES AND ENFORCEMENT.

19.1. Any person who violates, or fails to comply with, any part of this by-law commits an offence that is subject to a fine as set by the municipality of Five Rivers.

19.2. The By-Law Officer appointed for Five Rivers may serve people who violate this law with a fine or penalty.

19.3. Any person who fails to comply with an Order of a Fire Department Officer duly made under the authority of the is by-law, and its amendments, commits an offense punishable under Part II of the Provincial Offences Procedure Act as a category E offence.

19.4. Where a person is convicted of an offence under subsection 17.3, the Court, in addition to any penalty imposed under subsection 17.3, may order that person to comply with the Order.

19.5. A person who fails to comply with an Order of the Court under subsection 17.3 commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category F offence.

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20. EFFECTIVE DATE.

FIRST READING _____

SECOND READING _____

THIRD READING AND ENACTMENT _____

21. SIGNATURES.

MAYOR Tina Beers _____

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CLERK Rob Webber _____

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