

City of Portage la Prairie

BY-LAW NO. 04-8228

BEING A BY-LAW OF THE CITY OF PORTAGE LA PRAIRIE to regulate open air fires and the use of fire pits, outdoor fireplaces and stoves.

WHEREAS the Manitoba Municipal Act Section 232(1)(a) authorizes a Council to pass by-laws for the purposes respecting the safety, health, protection and well being of people and the safety and protection of property.

AND WHEREAS it is deemed expedient and in the public interest to regulate open air fires and the use of outdoor fire appliances.

NOW THEREFORE THE COUNCIL OF THE CITY OF PORTAGE LA PRAIRIE, DULY ASSESSEMBLED, ENACTS AS FOLLOWS:

PART 1 INTERPRETATION, APPLICATION, AND DEFINITIONS

1. CONTINUING CONSOLIDATION

- a) The Manager of Administration may cause to be prepared and printed, and kept up to date, a continuing consolidation of this by-law, and indices and appendices thereto, and may make such arrangements with respect thereto, and with respect to matters incidental thereto, as may be required.
 - b) Where a continuing consolidation of this by-law is prepared, all approved revisions thereto shall bear the designation and be located as follows:
 - i) When a specific portion has been amended or replaced by an amending by-law, the designation '[AM. B/L #]' shall be inserted immediately following the affected block of text.
 - ii) When a specific portion has been repealed or deleted by an amending by-law, the designation '[REP. B/L #]' shall be inserted adjacent to the current section, subsection, paragraph or clause number in place of the removed text.
 - iii) When a new portion has been enacted herein by an amending by-law, the designation '[EN. B/L #]' shall be inserted immediately following the added block of text.
 - iv) When any of the designations referred to in paragraphs i), ii), and iii) above are inserted within the text of this by-law, the figure '#' shall be replaced by the actual number of the respective amending by-law.
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- v) Where more than one clause, paragraph, or subsection of any particular section is affected by the same amending by-law, the designation may be placed at the end of each clause, paragraph, or subsection so affected or, at the left aligned margin of the paragraph, subsection, or section so affected, whichever is deemed to have more clarity in each particular instance.

2. LIST OF SCHEDULES

Attached to and forming part of this by-law are the following schedules:

- Schedule “A” – Open Air Fire Permit Application
- Schedule “B” – Approved Outdoor Burning Appliance Permit

3. AMENDMENT OF SCHEDULES

Council may from time to time, by resolution, amend each and every schedule attached to this By-Law.

4. CITATION

This by-law shall be known as **"The City of Portage la Prairie Open Air Fire By-Law"**.

5. DEFINITIONS

In this by-law:

- a) **“Acceptable Fire Pit”** means an outdoor receptacle that meets the following specifications:
- i) a minimum of 3 metres (10 feet) clearance, measured from the nearest fire pit edge, is maintained from buildings, property lines, or other combustible material; and
 - ii) a spark arrestor mesh screen with openings no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible material) is used to cover the fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks; and
 - iii) the fire pit height does not exceed .5 metres (20 inches) when measured from the surrounding grade to the top of the pit opening; and
 - iv) the fire pit opening does not exceed 1 metre (40 inches) in width or in diameter when measured between the widest points or outside edges; and

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- v) the fire pit installation has enclosed sides made from bricks, concrete blocks, heavy gauge metal, or other non-combustible materials acceptable to the Fire Chief or his designate; and
 - vi) clearance around the bottom of the fire pit shall be a minimum of .4 metres (16 inches); and
 - vii) the fire pit shall not be used to burn prohibited debris.
- b) **“Acceptable Fireplace and Stove”** means an outdoor receptacle that meets the following specifications:
- i) a minimum of 3 metres (10 feet) clearance measured from the nearest fireplace edge is maintained from buildings, property lines, or other combustible material; and
 - ii) the fireplace is constructed of materials that are heat and flame resistant; and
 - iii) the fireplace is equipped with a secured chimney that is not less than 2.5 metres (8 feet) in height when measured from the base of the fire burning area; and
 - iv) the fireplace chimney is equipped with a regulation screen no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible materials) and is designed to contain and reduce the hazards of airborne sparks; and
 - v) the base of the fire burning area is not less than .3 metres (12 inches) above the surrounding grade; and
 - vi) the base of the fire burning appliance shall be placed upon a non-combustible surface such as earth, concrete, metal or other non-combustible materials acceptable to the Fire Chief or his designate; and
 - vii) the fire chamber does not exceed .8 metres (30 inches) in width, and is at least .4 metres (16 inches) but no more than .6 metres (24 inches) in depth.
 - viii) outdoor solid fuel appliances shall be located on a flat level and non-combustible base clear of overhangs such as roofs, tree branches and utility and hydro wires.
 - ix) The fireplace or stove shall not be used to burn prohibited debris.
- c) **“Approved Outdoor Burning Appliance Permit”** means the permit to burn in an approved outdoor appliance, issued by Emergency Services in accordance with this by-law.

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- d) **“Burnable Debris”** means materials other than Prohibited Debris burned in accordance with the Permit and all applicable statutes and by-laws, including but not limited to materials such as: charcoal and cut or seasoned wood.
 - e) **“Cheminea”** means a one piece manufactured outdoor burning appliance constructed of cast metal, clay or similar material.
 - f) **“City”** means the City of Portage la Prairie.
 - g) **“Emergency Services”** means the City of Portage la Prairie Emergency Services Department.
 - h) **“Fire Chief”** means the Fire Chief for the City and anyone acting or authorized to act on his behalf.
 - i) **“Open Air Fire Permit”** means the permit to burn issued by the Emergency Services in accordance with this by-law.
 - j) **“Portable Barbecuing Appliance”** means any appliance sold or constructed for the purpose of cooking food outdoors, normally fuelled by liquefied petroleum gas (LPG), natural gas, compressed briquettes or charcoal.
 - k) **“Prohibited Debris”** means any inflammable waste that, when burned, may result in the release to the atmosphere dense smoke, offensive odours or toxic substances as defined in any applicable statutes and by-laws including but not limited to non-wooden material, tires, used oil and household refuse.
 - l) **“Solid Fuel”** means any solid or organic, consumable fuel such as briquettes, mesquite, charcoal or cut and seasoned wood.

PART 2 OPEN AIR FIRES PROHIBITED

6. No person shall permit an open air fire or any other fire upon land owned, occupied, or under his or her control within the City, unless an applicable permit has been obtained and the provisions outlined on the permit are complied with.
7. It shall be an offence for any person to light, ignite, start, or allow or cause to be lighted, ignited or started, an open air fire without first having obtained the applicable permit to do so from the Fire Chief or his designate.
8. **Exceptions:**
Notwithstanding Sections 6 and 7, a permit shall not be required under this by-law to conduct:
 - a) the cooking of food using a Portable Barbecuing Appliance;
 - b) burning in fireplaces in or attached to dwellings as provided by legislation;
 - c) burning in City-owned campgrounds and parks where fireplaces, stoves and fire pits are provided by or approved by the City;
 - d) burning by Emergency Services for the purpose of training;
 - e) burning carried out by the Province under special circumstances, including the burning of Dutch Elm and other forestry material;
 - f) controlled burning by the City at the location known as the “burn site”.
9. A person to whom a permit has been so issued shall not leave the permitted fire unattended at any time while it is burning or smouldering and shall ensure that sufficient appliances and equipment to prevent the fire from getting beyond control, or causing damage, or becoming dangerous, are at the fire site.

PART 3 PROCEDURE TO OBTAIN A PERMIT

10. Open Air Fire Permit:

- a) Any person wishing to obtain an Open Air Fire Permit shall make application to the Fire Chief, or his designate, in the form attached hereto as Schedule “A”, during the normal business hours of the Emergency Services.
- b) Each application for an Open Air Permit shall contain the following information:
 - i) the name and address of the applicant, and the name and address of the owner of the land on which the applicant proposes to set a fire;
 - ii) the type and description of material which the applicant proposes to burn;
 - iii) the period of time for which the permit is required;
 - iv) the precautions that will be taken by the applicant to ensure that the proposed fire remains under his or her control;
 - v) the signature of the applicant; and
 - vi) the written consent to the proposed fire by the owner of the land (if different from the applicant).
- c) Permits issued pursuant to this by-law are valid for such period of time as shall be determined and set by the Fire Chief or his designate and the permit shall have endorsed thereon the period of time for which the said permit is valid.
- d) The Fire Chief or his designate may extend the period of time that an Open Air Fire Permit is valid.

11. Approved Outdoor Burning Appliance Permit:

- a) Each application for an Approved Outdoor Burning Appliance Permit shall be made to the Fire Chief, or his designate, in the forms attached as Schedule B. Each application for an Approved Outdoor Appliance Permit shall contain the following information:
 - i) the name and address of the applicant, and the name and address of the owner of the land on which the applicant proposes to set up an approved outdoor burning appliance;
 - ii) the signature of the applicant; and

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- iii) the written consent to the proposed outdoor burning appliance by the owner of the land (if different from the applicant).
 - b) If an existing fire pit or outdoor fireplace does not comply with the provisions set out in this bylaw for an Acceptable Fire Pit or Acceptable Fireplace respectively, the Fire Chief, or his designate, may issue a permit for continued use of the fire pit or fireplace if satisfied that the non-conforming fire pit or fireplace meets appropriate safety standards and the deficiencies do not create a risk of fire. If the existing fire pit or fireplace is considered unsafe or unacceptable, use of same must be stopped immediately and is prohibited.
12. Upon receipt of an application for a permit, the Fire Chief, or his designate, shall consider the permit application, and may, pursuant to the provisions of this by-law and the Manitoba Fire Code:
- a) refuse to grant a Permit;
 - b) grant a Permit with or without terms and conditions as he/she deems appropriate,
 - c) determine that a permit is not required.
13. A permit shall not be transferable.

PART 4 REGULATIONS

14. General

- a) Material which may be burned in an open fire as permitted under this by-law shall consist only of charcoal or cut, seasoned wood. The burning of the following material is prohibited:
 - i) rubbish;
 - ii) garden refuse, lawn clippings or leaves;
 - iii) manure;
 - iv) livestock or animal carcasses
 - v) any material classified as a dangerous good, and any material which, when burned, will generate black smoke or an offensive odour including insulation from electrical wiring or equipment, asphalt, roofing materials, hydrocarbons, plastics, rubber materials, creosote wood, or any similar material.
- b) Fires shall be reasonably supervised so as to prevent their spread.
- c) Fires shall not be set in windy conditions conducive to creating a running fire or a nuisance to another person.
- d) If, in the opinion of the Fire Chief, or his designate, smoke from a fire causes an unreasonable interference with the use and enjoyment of another person's property, the fire shall be extinguished immediately.
- e) The person to whom an Open Air Fire Permit is issued shall be responsible for any and all damages as a result of burning.
- f) Any fire permitted by this by-law shall be contained to a reasonable size so that the fire, or any embers, sparks or smoke emanating therefrom does not endanger any person or property or cause any objectionable effect on nearby property.
- g) The Fire Chief, or his designate, may direct that a fire in a fire pit be extinguished, or may extinguish a fire that in his opinion is a nuisance or a threat to public safety.

15. Outdoor Burning Appliances

- a) The site of the burning and the receptacle shall be inspected and an Open Air Fire Permit and/or Approved Outdoor Appliance Permit obtained from Emergency Services.

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- b) Acceptable fire pit fires shall not be set unless the following measures have been taken to limit their spread:
- i) be limited to a diameter of 1 metre (40 inches) and be ringed with brick, stone, concrete, or heavy gauge metal;
 - ii) the brick, stone, concrete, or heavy gauge metal shall be separated from grass and any other vegetation by a distance of at least 40 cm (16 inches) by means of clean earth, sand, gravel or other non-combustible medium;
 - iii) a receptacle must be covered with a heavy gauge metal screen with openings not exceeding 1.25 cm (.5 inches); and
 - iv) the fire shall be located on private property, a distance of at least 3 metres (10 feet) from any property line, building or other combustible structure.
- c) Any Cheminea or portable fireplace/stove used as an outdoor burning appliance must be an acceptable manufactured burning appliance and subject to the following provisions:
- i) shall not be used on apartment balconies;
 - ii) shall not be used indoors;
 - iii) may be used on a non-combustible surface such as earth, concrete, stone, etc.;
 - iv) shall not be used on wooden decks unless located 3 metres (10 feet) from any property line, building or other combustible structure and placed on a non-combustible surface extending 40 cm (16 inches) from the widest part of the appliance;
 - v) shall be separated from grass and other vegetation by a distance of at least 40 cm (16 inches) by means of earth, sand, gravel or other non-combustible medium;
 - vi) shall be located on private property a distance of at least 3 metres (10 feet) from any property line, building or other combustible structure; and
 - vii) shall have a spark arrestor mesh screen with openings no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible material) which shall be used to cover the fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks.

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- d) Every person who uses a barbecue or similar device shall:
- i) use the barbecue in a reasonable and safe manner;
 - ii) keep the barbecue, when lit, at the manufacturer's recommended distance from all combustible materials or a minimum of 3 metres (10 feet);
 - iii) ensure that a portable grill or barbecue, when used on or near any building containing two or more dwelling units, shall be located on a firm base and be firmly anchored not less than 3 metres (10 feet) from any combustible structure;
 - iv) refrain from leaving the barbecue unattended when lit;
 - v) keep the barbecue in a reasonable state of repair;
 - vi) comply with all federal and provincial regulations governing the use and storage of propane cylinders. Propane cylinders must not be repaired, stored or contained within a building;
 - vii) ensure propane cylinders are shut off at the tank valve when not in use;
 - viii) ensure propane cylinders are connected and secured to the barbecue; and
 - ix) ensure propane cylinders are kept in an upright position at all times, including when the cylinders are in transit, in service, or in storage.
- e) When solid fuel appliances are used, provisions for the storage of ashes or hot coals is limited to approved receptacles.
- f) In addition to subsections (d) and (e) above, the following provisions apply, for the use of a barbecue or similar device on a balcony:
- i) solid fuel barbecues or other similar cooking device shall not be used; and
 - ii) propane cylinders must not exceed the 20 pound size.
- g) Except for approved auxiliary-fuelled incinerators, no incinerator shall be constructed or installed.
- h) Burning barrels or other similar device for the burning of any household or yard refuse are prohibited.

PART 5 OFFENSES AND PENALTIES

16. The Fire Chief or his designate may terminate, suspend or cancel a permit issued upon contravention of any provision of this by-law or the Manitoba Fire Code or any terms and conditions found on the permit.

17. Where a person:

- a) fails to obtain a permit as required under this by-law; or
- b) obtains a permit as provided for in this by-law but fails to follow the provisions of the by-law and those conditions outlined on the permit; or
- c) originally did not require a permit, but whose actions brought an open air fire under the requirement for a permit as defined herein; and a fire beyond the control of the person or other emergency results,

then such person shall be liable to pay all costs of all emergency response service incurred by Emergency Services, and the City shall be able to recover from such person all such costs as a debt owing to the municipality.

18. Any person who contravenes any provision of this by-law is guilty of an offence and is liable:

- a) To a fine of not less than \$50.00 and not more than \$500.00, plus all applicable costs and penalties for the first offence;
- b) To a fine of not less than \$100.00 and not more than \$1,000.00, or to imprisonment for not more than 30 days, or both, plus all applicable costs and penalties for the second offence and for each subsequent offence within 12 months of the first offence.

19. This by-law shall come into force the day following receipt of third reading.

DONE AND PASSED AS A BY-LAW OF THE CITY OF PORTAGE LA PRAIRIE BY
COUNCIL THEREOF IN OPEN SESSION ASSEMBLED THIS 9th DAY OF August,
2004.

_____ [orig signed by Mayor Ian MacKenzie] _____
Mayor

_____ [orig signed by Margaret Loewen] _____
Manager of Administration

Read a first time this 26th day of July , AD. 2004.
Read a second time this 9th day of August , A.D. 2004.
Read a third and final time this 9th day of August , A.D. 2004.

City of Portage la Prairie Emergency Services OPEN AIR FIRE PERMIT APPLICATION	
Applicant's name and address:	Owner's name and address (if different than applicant):
	Owner's consent (required if different than applicant):
Location of Proposed Burn: ? same as above, or _____	
Purpose of the Burn (include description of material to be burned):	Date(s) requested:
Permission may be granted provided the following conditions are strictly adhered to. Any other conditions will be listed on a separate page. <ol style="list-style-type: none"> 1. That the Portage la Prairie Emergency Services Department is contacted at 239-8340 PRIOR to starting the burn, and then again AFTER the burn is completed. 2. That the fire is supervised at all times (day or night) 3. That the direction of the smoke will not be a nuisance to the neighbours or hamper vehicle travel. 4. That the permit holder is fully responsible for any damage or injuries resulting from this fire. 	What precautions will be taken to ensure that the proposed fire remains under the control of the applicant? _____ _____ _____ _____
This permit is valid only for the dates listed above. Any other burning voids this permit. Failure to comply with the above requirements renders the applicant liable under the National Fire Code of Canada and/or the penalty clause of the City of Portage la Prairie by-laws pertaining thereto.	
Applicant's signature:	Date:
Approved by City of Portage la Prairie Emergency Services:	Date
Original to File Copy to Applicant	

OPEN FIRES

General Requirements:

1. Material which may be burned shall consist only of charcoal or cut, seasoned wood. The burning of the following material is prohibited:
 - rubbish;
 - garden refuse, lawn clippings or leaves
 - manure;
 - livestock or animal carcasses;
 - any material classified as a dangerous good and any material which, when burned, will generate black smoke or an offensive odour including insulation from electrical wiring or equipment asphalt roofing materials, hydrocarbons, plastics, rubber materials, creosote wood or any similar material.
2. Fires shall be reasonably supervised so as to prevent their spread.
3. Fires shall not be set in windy conditions conducive to creating a running fire or a nuisance to another person.
4. If smoke from a fire causes an unreasonable interference with the use and enjoyment of another person's property, the fire shall be extinguished immediately.
5. The person to whom the permit is issued is responsible for any or all damages as a result of burning.
6. Any fire permitted by this by-law shall be contained to a reasonable size so that the fire, or any embers, sparks or smoke emanating therefrom do not endanger any person or property or cause any objectionable effect on nearby property.

Open Air Fires (Specific Burn)

1. It shall be an offence for any person to light, ignite or start or allow or cause to be lighted, ignited or started a fire of any kind whatsoever in the open air without first having obtained the applicable permit to do so from the Fire Chief or designate.
2. A person to whom a permit has been so issued hereunder shall not leave the permitted fire unattended at any time while it is burning or smouldering and shall ensure that sufficient appliances and equipment to prevent the fire from getting beyond control or causing damage or becoming dangerous are at the fire site.
3. Notwithstanding subsection (a), no permit shall be required to light, ignite, or start or allow or cause to be lighted, ignited, or started a small contained fire in a barbecue, grill, or similar device used to cook food.

Fire Pits and Outdoor Burning Appliances

The site of the burning and the receptacle shall be inspected and a permit (Open Air Fire Permit or Approved Outdoor Appliance Permit) obtained from the Portage la Prairie Emergency Services.

1. Fire Pits

Acceptable fire pit fires shall not be set unless the following measures are taken to limit their spread:

- a) Be limited to a diameter of 1 metre (40 inches) and be ringed with brick, stone or concrete;
- b) The brick, stone, or concrete shall be separated from grass and any other vegetation by a distance of at least 40 cm (16 inches) by means of clean earth, sand, gravel or other non-combustible medium;
- c) A receptacle must be covered with a heavy gauge metal screen with openings not exceeding 1.25 cm (.5 inches); and
- d) The cooking fire shall be located on private property, a distance of at least 3 metres (10 feet) from any property line, building or other combustible structure.

The Fire Chief or designate may direct that a fire in a fire pit be extinguished, or may extinguish a fire that in his opinion is a nuisance or a threat to public safety.

2. Cheminea and Portable Fireplaces/Stoves

(MUST BE ACCEPTABLE MANUFACTURED BURNING APPLIANCES)

- a) Shall not be used on apartment balconies.
- b) Shall not be used indoors.
- c) May be used on a non-combustible surface such as earth, concrete, stone, etc.
- d) Shall not be used on wooden decks unless 3 meters (10 feet) from any property line, building or other combustible structure and placed on a non-combustible surface extending 40 cm (16 inches) from the widest part of the appliance.
- e) Shall be separated from grass and other dry vegetation by a distance of at least 40 cm (16 inches) by means of clean earth, sand, gravel or other non-combustible medium.
- f) Shall be located on private property a distance of at least 3 metres (10 feet) from any property line, building or other combustible structure.
- g) Shall have a spark arrestor mesh screen with openings no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible material) is used to cover the fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks.

3. **Barbecuing**

- a) Every person who uses a barbecue or similar device shall:
 - i) Use the barbecue in a reasonable and safe manner.
 - ii) Keep the barbecue, when lit, the manufacturer's recommended distance from all combustible materials or a minimum of 3 metres (10 feet).
 - iii) A portable grill or barbecue, when used on or near any building containing two (2) or more dwelling units, shall be located on a firm base and be firmly anchored not less than 3 metres (10 feet) from any combustible structure.
 - iv) Refrain from leaving the barbecue unattended, when lit.
 - v) Keep the barbecue in a reasonable state of repair.
 - vi) Comply with all federal and provincial regulations governing the use and storage of propane cylinders. Propane cylinders must not be repaired, stored or contained within a building.
 - vii) Propane cylinders shall be shut off at the tank valve when not in use.
 - viii) Propane cylinders shall be connected and secured to the barbecue.
 - ix) Propane cylinders shall be kept in an upright position at all times, including when the cylinders are in transit, in service or in storage.
- b) When solid fuel appliances are used, provisions for the storage of ashes or hot coals is limited to approved receptacles.
- c) In addition to the above requirements, if any person uses a barbecue or similar device on a balcony, the following provisions apply:
 - i) Solid fuel barbecues or similar cooking devices shall not be used;
 - ii) Propane cylinders must not exceed the 20 pound size.

Open Air Fire By-Law

An open fire pit is a great way to enjoy the outdoors year-round, but it is important to ensure that yours is safe and legal.

The City of Portage la Prairie has an Open Air Fire By-Law which governs the construction and use of fire pits.

Here are some details outlined in the By-Law

City of Portage la Prairie

ACCEPTABLE FIRE PIT

