

BY-LAW NO: 2703

THE MUNICIPAL COUNCIL OF THE CITY OF MEDICINE HAT ENACTS AS FOLLOWS:

1. Why is this By-Law being passed?

The purpose of this By-Law is to reduce the risk of uncontrolled fires and nuisances that may arise from certain outdoor burning practices, by:

- (a) imposing a general prohibition on all outdoor burning; and
- (b) specifying the circumstances under which outdoor burning is lawful despite the general prohibition.

2. What is the general rule concerning outdoor burning?

No person shall burn, or allow the burning of, any combustible matter or thing outside of a building.

3. How can a permit be obtained as an exception to the general rule prohibiting outdoor burning?

- (1) The Fire Chief may issue a permit to allow a person to engage in outdoor burning, if the Fire Chief is of the opinion that there will be no unacceptable

hazard caused by the burning, and if the purpose of the burning is:

- (a) to thaw the ground in order to facilitate building construction or access to buried utility lines;
 - (b) to destroy weeds or brush if the applicant shows on clear and compelling evidence that any other method of destroying the weeds or brush would be impractical or prohibitively expensive;
 - (c) to destroy refuse or waste or other materials that have accumulated at a sanitary landfill operated by or under the auspices of the City's Public Works Department.
- (2) An application for a burning permit shall be accompanied by an application fee of \$25.00.
- (3) A burning permit may be subject to any special requirements or conditions that the Fire Chief considers advisable to reduce or eliminate the hazard arising from the burning.
- (4) The Fire Chief may revoke a burning permit issued under this section if, in the opinion of the Fire Chief:

- (a) the commencement or continuation of the burning would give rise to an unacceptable hazard; or
 - (b) any condition or special requirement of the permit is not being fulfilled or observed.
- (5) The Fire Chief may in writing delegate the authority conferred under this section to any other employee of the City's Fire Department who, in the Fire Chief's opinion, is competent to evaluate applications for permits and determine on a case-by-case basis whether a permit should be issued, with or without special requirements or conditions.
- (6) The decision of the Fire Chief¹, in response to an application for a burning permit, is final and binding.

4. What are the responsibilities of a person who creates or maintains an outdoor fire?

- (1) A person responsible for creating or maintaining an outdoor fire, irrespective of whether the person has obtained a burning permit, is liable to the

¹"Fire Chief" in this context includes any person to whom the Fire Chief's authority is delegated under this section.

City for any and all costs incurred if the fire is extinguished by the City's Fire Department because it has gone out of control or become a hazard.

- (2) The holder of a burning permit must ensure that:
 - (a) an adult person is at all times in close physical proximity to the fire authorized by the permit, and attentively watching the fire;
 - (b) the area in the immediate vicinity of the fire is sufficiently secured to prevent entry of children or trespassers to that area; and
 - (c) there is readily available, in the immediate vicinity of the fire, sufficient means, appliances or equipment to prevent the fire from going out of control or becoming a hazard.

5. Is there any lawful outdoor burning in the City, other than under the authority of a permit?

- (1) Notwithstanding the general rule set out in section 2, the following types of outdoor burning are lawful without a burning permit:
 - (a) burning of any tobacco product lawfully sold and consumed in Alberta;

- (b) burning initiated and conducted by the City's Fire Department for the purpose of fire suppression or training;
 - (c) burning in a fire pit, outdoor fireplace or barbecue for the purpose of cooking food or obtaining warmth;
 - (d) burning in a closed container for the purpose of smoking meat or fish provided that the closed container is located a minimum of 3 metres (10 feet) from the nearest structure, property line, overhead tree, or other combustible material; and
 - (e) burning in a closed container for the purpose of making ceramics or pottery provided that the closed container is located a minimum of 3 metres (10 feet) from the nearest structure, property line, overhead tree, or other combustible material.
- (2) Only the following materials may be burned in a fire pit, outdoor fireplace, or barbecue:
- (a) charcoal;
 - (b) natural gas;
 - (c) propane;

(d) clean, dry wood.

No person shall burn, or allow to be burned, refuse or waste in a barbecue, fire pit, or outdoor fireplace.

(3) No person shall carry out outdoor burning pursuant to clauses 5(1)(c), (d) or (e) at such time or in such manner or location as to create a hazard.

(4) Subsection (3) shall apply to an outdoor fireplace or fire pit regardless of whether the outdoor fireplace or fire pit was in existence prior to the coming into effect of this By-Law.

6. What kind of permission is required to construct a fire pit or outdoor fireplace?

(1) No person shall construct, or allow to be constructed, a fire pit or outdoor fireplace until the written approval of the Fire Chief has been obtained for the size, location, method of construction, and materials used to construct the fire pit or outdoor fireplace.

(2) In deciding whether to grant approval for construction of a fire pit or outdoor fireplace the Fire Chief must apply the guidelines set out in

Schedule "A" attached to and forming part of this By-Law.

- (3) The Fire Chief may in writing delegate the authority conferred under this section to any other employee of the City's Fire Department who, in the Fire Chief's opinion, is competent to evaluate applications for approval to construct fire pits or outdoor fireplaces and determine on a case-by-case basis whether such construction should be allowed.
- (4) The decision of the Fire Chief², in response to an application for permission to construct a fire pit or outdoor fireplace, is final and binding.
- (5) The requirements of this section are in addition to any other requirements under any other law for the construction of a fire pit or outdoor fireplace.
- (6) This section does not apply to an outdoor fireplace or fire pit in existence prior to the coming into effect of this By-Law.

²"Fire Chief" in this context includes any person to whom the Fire Chief's authority is delegated under this section.

7. What are the consequences of violating this By-Law?

A person who contravenes any provision of this By-Law is guilty of an offence and liable upon summary conviction to pay a fine of One Hundred Dollars (\$100.00) or in default of payment to be imprisoned for a period not exceeding sixty (60) days.

8. Who has the authority to enforce this By-Law?

- (1) If the Fire Chief, or any By-Law Enforcement Officer or Peace Officer employed by the City's Police Service, has reasonable and probable grounds to believe that a person has contravened any provision of this By-Law, he or she may serve upon the person a summons or offence notice under Part 2 or Part 3 of the Provincial Offences Procedure Act R.S.A. 1980 c.P-21.5 in accordance with the requirements of that statute.

- (2) The Fire Chief may, in writing, delegate the enforcement authority conferred under this section to any other employee of the City's Fire Department who, in the opinion of the Fire Chief, is competent to determine whether a contravention of this By-Law has occurred or is occurring.

9. What is the significance of the headings and footnotes in this By-Law?

The underlined headings and footnotes in this By-Law are intended to assist the reader in construing and applying this By-Law, and are as fully a part of this By-Law as any other part.

10. Transitional, General and Commencement Provisions

(1) In this By-Law:

- (a) the singular may be read as though the plural had been expressed, and vice versa; and
- (b) a reference to a person may be read as a reference to a legal entity other than a natural person;

wherever the context in which this By-Law has application reasonably requires such construction.

(2) For the purpose of interpreting and enforcing this By-Law in court, a person who is:

- (a) a registered owner of an estate in fee simple in real property; or
- (b) entitled to physical possession of real property, whether under a lease or by virtue of a life estate or by any other means,

is deemed to have allowed any outdoor fire that occurs on that real property, unless evidence to the contrary is adduced.

- (3) It is the intention of the municipal council of the City that if any provision of this By-Law be declared invalid for any reason by a Court of competent jurisdiction, then all other provisions of this By-Law shall remain valid and enforceable.
- (4) Section 14 of By-Law No. 1805 (the Waste By-Law) is repealed with the coming into force of this By-Law.
- (5) Notwithstanding the repeal of Section 14 of By-Law No. 1805, that section continues in full force and effect for the purpose only of disposing of any legal proceedings pending in respect of it at the time of the coming into force of this By-Law.
- (6) This By-Law comes into effect on the date it receives third reading and passage by the municipal council of the City.

11. Definitions

In this By-Law:

- (a) "City" means the municipal corporation of the City of Medicine Hat, or the geographic area within the boundary thereof, according to the context in which the term is used;

- (b) "Fire Chief" means the person holding the office of Chief of the Fire Department of the City;

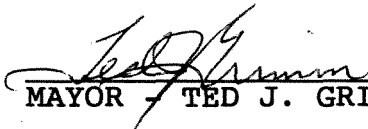
- (c) "Hazard" means any risk of personal injury or property damage from any burning, and also includes any foul or unhealthful odour or gas or other nuisance caused by the burning of any matter or thing.


- (e) "Refuse or waste" includes:
 - (i) any animal or vegetable matter including materials resulting from the handling, preparation, cooking, consumption or storage of food;

 - (ii) broken dishes, tins, glass, rags, cast-off clothing, waste paper, excelsior, cardboard, sawdust, food containers, plastic, grass cuttings, shrubbery and tree prunings, weeds, manure, tree stumps, roots, turf, earth, furniture, household appliances, or auto parts;

and also includes any matter or thing classified as waste under the Hazardous Chemicals Act, R.S.A 1980 c.H-3, including regulations thereunder and all amendments or successor legislation thereto.


READ A FIRST TIME in Open Council this 26th day of August, A.D. 1991


MAYOR - TED J. GRIMM

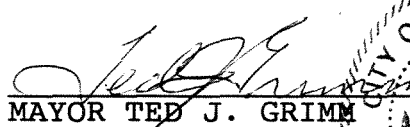

ACTING CITY CLERK
- PEARL K. BLACK


READ A SECOND TIME in Open Council this 10th day of August, 1992



MAYOR - TED J. GRIMM


CITY CLERK - LARRY P. GODIN

READ A THIRD TIME AND FINALLY PASSED in Open Council this 10th day of August, 1992


MAYOR TED J. GRIMM


CITY CLERK - LARRY P. GODIN



SCHEDULE "A"

GUIDELINES FOR FIRE PIT AND OUTDOOR FIREPLACE CONSTRUCTION

Fire Pits and Outdoor Fireplaces shall be constructed in accordance with the following specifications:

- (1) A minimum of 3 metres (10 feet) clearance must be maintained from the nearest structure, property line, overhead tree, or other combustible material.
- (2) All installations must have enclosed sides, not less than 450 mm (18 inches) high and not more than 900 mm (36 inches) wide, made from bricks, concrete blocks, heavy gauge metal, or other non-combustible components approved by the Fire Chief.
- (3) All installations must be supplied with spark arrestor mesh screens of 1/2 inch expanded metal (or equivalent).
- (4) An installation equipped to use natural gas as fuel must be approved by the provincial Department of Labour, Gas Inspection Branch.