

RURAL MUNICIPALITY OF ST. CLEMENTS

BY-LAW NO. 2-2022

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ST. CLEMENTS for the prevention and the control of fires within the Rural Municipality of St. Clements.

WHEREAS sections 232 and 233 of *The Municipal Act*, L.M. 1996, c.58 Cap. M225 provide in part as follows:

Spheres of Jurisdiction

232(1) A Council may pass by-laws for municipal purposes respecting the following matters:

- (a) The safety, health, protection and well being of people, and the safety and protection of property;
- (i) Preventing and fighting fires;
- (j) The sale and use of firecrackers and other fireworks, the use of rifles, guns, and other firearms, and the use of bows and arrows and other devices;

Exercising by-law making powers

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;

AND WHEREAS the Council of the Rural Municipality of St. Clements deems it desirable and in the best interest of the Municipality to reduce the potential for uncontrolled fires and to put in place controls for Controlled Fires;

AND WHEREAS the Council of the Rural Municipality of St. Clements deems it desirable to regulate the use of Outdoor fire Pits and Outdoor Solid Fuel Appliances;

NOW THEREFORE the Council of the Rural Municipality of St. Clements in session duly assembled enacts as follows:

Short Title

1. This By-Law may be referred to as The Rural Municipality of St. Clements Burning By-law.

Definitions:

2. Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this By-Law have the same meaning

as the same words and expressions in *The Municipal Act* and the following words are defined as follows:

- (a) "Burn Barrel" means a metal container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal;
- (b) "Emergency" means any occurrence or set of circumstances involving actual or imminent trauma or property damage necessitating immediate action;
- (c) "Firework" means any article of the class of fireworks, that is designed and prepared for the purpose of producing a visual show or effect, whether or not preceded by, accompanied with or followed by an explosion or audible sound and, without limitation of the generality of the foregoing, includes the articles commonly known and described as Roman candles, pinwheels and sparklers;
- (d) "Firecracker" means a small explosive device primarily designed to produce a large amount of noise, especially in the form of a loud bang;
- (e) "Municipality" means the Rural Municipality of St. Clements;
- (f) "Occupant" means and includes an owner, lessee, tenant, sub-tenant, under-tenant and respective assigns, heirs and legal representative, and includes any person, business or corporation exercising physical control or possession of real property or premises with or without the consent of the owner;
- (g) "Officer" means any designated officer, Fire Chief or other person appointed and employed by the Municipality to administer and enforce this by-law and preserve and maintain the public peace;
- (h) "Outdoor Fire" a fire that is started outdoors including crop residue burning, land clearing and grass burning, but does not include a fire started in, and remains contained within, a fire pit or solid fuel burning appliance.
- (i) "Owner" means the person or persons or the corporation shown as the registered owner of real property on the latest revised assessment rolls of the Municipality;
- (j) "Sky Lantern" means a small hot air balloon made of paper, with an opening at the bottom where a small fire is suspended;

General Provision

3. No person unless specifically permitted through this by-law or an Authority Having Jurisdiction, shall set or start an outdoor fire within the boundaries of the Rural Municipality of St. Clements unless it is conducive to do so and confirmation has been received from the Province of Manitoba Department of Conservation.

Requirements for Fire Pits and or Outdoor Solid Fuel Appliances

4. Outdoor fire pits as well as outdoor solid fuel appliances may be constructed and used, for recreational purposes only, providing that:
 - (a) The outdoor fire pit or outdoor solid fuel appliance shall be enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other noncombustible materials.
 - (b) The outdoor fire pit or solid fuel appliance shall be covered with a noncombustible grate or mesh. If the outdoor fire pit or solid fuel appliance is equipped with a chimney, it shall have a noncombustible mesh or spark arrester installed.
 - (c) The outdoor fire pit or outdoor solid fuel appliance shall be located on a flat, level and noncombustible base and clear of overhangs, such as roofs, tree branches, or utility wires.
 - (d) A minimum clearance of 10 feet or 3 meters measured from the nearest fire pit edge is maintained from any structures or any combustibles (i.e. fences, trees, hydro poles) and property lines.
 - (e) Outdoor solid fuel appliances shall be installed to manufacturer's specifications with any required distance to a structure or combustible of at least 10 feet or 3 meters.
 - (f) When in use, the fire pit must be attended by a responsible adult person until the fire has been fully extinguished.
 - (g) Fires in outdoor fire pits and outdoor solid fuel appliances are not permitted under severe wind conditions or when atmosphere or local circumstances make such fires a hazard.
 - (h) Only clean, dry wood or briquettes can be burned in outdoor fire pits or outdoor solid fuel appliances. Fires cannot be used to burn garbage, rubbish, previously painted or treated wood and any fuel which when burned, may result in the release of dense smoke, or offensive odors.
 - (i) A means of extinguishment such as a portable fire extinguisher or garden hose shall be available on site. Fires must be extinguished before leaving the site.
 - (j) Smoke from outdoor fire pits and outdoor solid fuel appliances shall not impact on neighbouring properties by releasing offensive odors that are annoying, unpleasant or a nuisance.

- (k) All fires must be limited in size so the available firefighting resources at hand may easily control them.
5. All burning within the municipality shall be subject to the conditions and provisions of The Wildfires Act, and the Manitoba Crop Residue Burning Regulation – MR 77/93, including but not limited to, the following condition;
- (a) Any Outdoor Fire shall be supervised by the owner or occupier of the land or a person authorized by the owner or occupier of the land.
 - (b) No person shall start an Outdoor Fire on any land without taking sufficient precautions that are reasonably necessary to protect persons and the property of others from the fire.
 - (c) No person shall start an Outdoor Fire unless all precautions are taken to ensure that the fire can be kept under control, or when weather conditions are conducive to a fire burning out of control
 - (d) No person shall cause an Outdoor Fire to be started in order to guard property; clear land or burn debris; burn crop, stubble or grass; unless the land on which the fire is started is completely 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).
 - (e) The 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.
 - (f) 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.
 - (g) All fires must be extinguished when unsupervised.
6. Nothing in this By-Law permits or authorizes a person to use a fire pit in a manner that creates a nuisance to any other person.
7. Nothing in this By-Law is intended to interfere with or prohibit the burning of agricultural residue regulated by the Burning of Crop Residue Regulation under *The Environment Act*.
8. If, in the opinion of the Fire Chief, it is not conducive to have an outdoor fire, the Fire Chief can direct the fire to be extinguished.

Burning Ban

9. The Municipality may, by resolution, at their discretion, ban **ALL BURNING AND THE USE OF FIREWORKS, FIRECRACKERS AND OR SKY LANTERNS** (including an **Outdoor Fire** and fires contained within fire pits and solid fuel burning appliances) in the Rural Municipality of St. Clements if conditions exist where, in the opinion of the Municipality, fires are of risk, and such a ban would prevent wildfires from occurring.

Responsibility for Prevention and Control of Fires

10. The Owner or Occupant in control of a property or premises is responsible for Prevention and Control of Fires created by invitees, guests or other persons on the property or premises in the same manner as the person actually creating the fire unless the Owner or Occupant establishes that he or she exercised due diligence in a bona fide effort to control and abate such fires.

Enforcement and Fines

- 11.(1) Any person may allege a violation of this by-law by filing a written complaint with an Officer in such form and with such particulars as the Officer may from time to time require, and/or the Officer may investigate based on his/her regular patrol of the Municipality.
- 11.(2) Where an Officer determines that a contravention of any provision of this by-law has occurred, the Officer may commence enforcement proceedings and issue and serve a notice of contravention and, if required, an order to remedy a contravention pursuant to the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures.
- 11.(3) A person who receives an order to remedy a contravention may appeal such order in accordance with the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures. Council's decision on the issue is final and not subject to further appeal.
- 11.(4) The Municipality and/or the Officer may take whatever action or measures are necessary to remedy a contravention of this by-law in accordance with the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures.
- 11.(5) Any person who contravenes or disobeys or refuses or neglects to obey or comply with any provision of this by-law or any order made under this by-law and/or the Municipality's General Enforcement By-law, as amended from time to time, is guilty of an offence and is liable to fines and penalties

as set out in the Municipality's General Enforcement By-law, as amended from time to time.

- 11.(6) All costs imposed to extinguish a fire that was set in contravention of the By-Law, are a debt owed by the owner of the property on which the fire was located, to the Municipality and may be recovered by the Municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*.
- 11.(7) The Municipality may claim costs where the Fire Department is called to extinguish a fire, which has been set in contravention of this By-Law.
- 11.(8) The cost of fighting and extinguishing a fire that was set in contravention of this by-Law may be charged to the property owner at a rate of \$1000.00 per hour or part thereof.

Severability

12. If any provision of this by-law is held to be invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

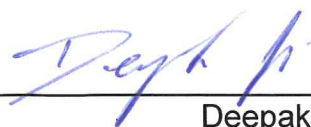
Repeal

13. By-Law 5-2012 and any amendments hereto is hereby repealed in its entirety.

DONE AND PASSED by the Council of the Rural Municipality of St. Clements, in Council duly assembled, at East Selkirk, Manitoba, this 8th day of February 2022.

RURAL MUNICIPALITY OF ST. CLEMENTS


Debbie Fiebelkorn, Mayor


Deepak Joshi,
Chief Administrative Officer