

# THE RURAL MUNICIPALITY OF ALEXANDER

## BY-LAW # 05/10

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ALEXANDER TO REGULATE OPEN FIRES AND THE INSTALLATION AND USE OF OUTDOOR FIRE PITS AND OUTDOOR SOLID FUEL APPLIANCES.

**Whereas** Section 232 (1) (a) and (i) of the Manitoba Municipal Act <sup>S.M. 1996, c. 58 – Chap. M225</sup> Provides as follows:

A Council may pass by-laws for municipal purposes respecting the following:

- (a) The safety, health, protection and well being of people, and the safety and protection of property;
- (i) Preventing and fighting fires;

**And whereas** Clause 25(1) of the Fires Prevention and Emergency Response Act <sup>C.C.S.M. c. F80</sup> (FP&ER) provides that the Local Assistant to the Fire Commissioner must investigate the causes, origin and circumstances of a fire and submit his report to the Fire Commissioner;

**And whereas** Clause 28(2) of the FP&ER Act states that nothing in the Act prevents a local authority from making and enforcing by-laws relating to matters dealt with by this Act or the regulations, including making by-laws that impose or prescribe higher or more stringent standards or requirements than those provided for by this Act or the regulations;

**And whereas** the Council of the Rural Municipality of Alexander deems it desirable and in the best interest of the municipality to reduce the potential for Uncontrolled Fire and enhance the existing controls for Controlled Fires;

**And whereas** the Council of the Rural Municipality of Alexander deems it desirable to regulate the installation and use of Outdoor Fire Pits and Outdoor Solid Fuel Appliances;

**Now therefore**, the Council of the Rural Municipality of Alexander, in open meeting duly assembled, enacts as follows:

### SECTION 1 – TITLE

1.0 This by-law may be referred to as “The Rural Municipality of Alexander Open Fire and Fire Pit By-law”.

### SECTION 2 – INTERPRETATION AND APPLICATION

2.0 The Chief Administrative Officer or his/her designate may cause to be prepared, 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.

2.1 Where a continuing consolidation of this by-law is prepared, all approved revisions thereto shall bear the designation and be located as follows:

- a) 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.
- b) 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.
- c) 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.

- d) When any of the designations referred to in paragraphs a), b) and c) 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.
- e) 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, whichever is deemed to have more clarity in each particular instance.
- f) Where a Schedule to this by-law has been amended by a resolution of Council the designation ‘[RES # (meeting date)]’ shall follow immediately after the change.

2.3 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 Highway Traffic Act of the Province of Manitoba.

### SECTION 3 – DEFINITIONS

<b>Adult</b>	- shall be defined as an individual exceeding eighteen (18) years of age.
<b>Appropriate Material</b>	- shall mean only clean, dry wood or briquettes and shall exclude garbage, rubbish, debris, previously painted or treated wood, any fuel, which when burned may result in the release of dense smoke or offensive odours plus any material as defined within the legislation of Canada or Manitoba as hazardous.
<b>Authority Having</b>	- shall mean a designated representative of the Province of Manitoba with the authority to permit a Controlled Burn within their area of responsibility or a Fire Chief of the Rural Municipality of Alexander given the authority, through this by-law, to permit a Controlled Burn.
<b>Controlled Burn</b>	- shall, for the purposes of this by-law, mean the burning of material outside of an Outdoor Fire Pit or Solid Fuel Appliance for which notification has been provided to the designated authorities and is fully supervised by an adult person as outlined within this by-law.
<b>Fire Chief</b>	- shall mean the Local Assistant to the Fire Commissioner as designated within the Fire Protection and Emergency Response Act of the Province of Manitoba.
<b>Landowner</b>	-shall mean the owner of the land.
<b>Outdoor Fire Pit</b>	- shall mean a constructed facility, for the burning of appropriate materials, as described in Clause 7.1 of this by-law
<b>Outdoor Solid Fuel Fired Appliance</b>	- shall mean a constructed facility, for the burning of appropriate materials, as described in Clause 7.1 of this by-law.

### SECTION 4 – LIST OF SCHEDULES

4.0 Attached to and forming part of the by-law re the following schedules:

### SECTION 5 – AMENDMENTS TO SCHEDULES

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

### SECTION 6 – OPEN OUTDOOR FIRES

6.0 No person, unless specifically permitted through this by-law or an Authority Having Jurisdiction, shall set or start an Outdoor Fire shall not be permitted within the boundaries of the Rural Municipality of Alexander.

## SECTION 7 – PERMITTED OUTDOOR FIRES

7.0 Outdoor Fires shall only be set or started in a Outdoor Fire Pit or Outdoor Solid Fuel Fired Appliance constructed and used in accordance with this by-law.

7.1 Outdoor Fire Pits or Outdoor Solid Fuel Fired Appliances may be constructed and used, for recreational purposes only, provided that:

### 7.1 a) Outdoor Fire Pit

- i. Shall be fully enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other non-combustible materials
- ii. Shall not exceed eighteen (18) inches in height when measured from the bottom of the pit to the top of the pit opening and is at least six (6) inches in height when measured from the surrounding grade to the top of the pit opening.
- iii. Shall have an opening which does not exceed thirty (30) inches in diameter or an area of six (6) feet, whereby the width or length is not greater than thirty (30) inches.
- iv. Shall be located on a flat level and non-combustible base and clear of overhangs such as roofs, tree branches or Utility wires.
- v. Shall have a spark arrestor, grill or mesh with openings no larger than  $\frac{1}{2}$  X  $\frac{1}{2}$  inches and constructed of non-combustible material and is used to cover the entire area of the Outdoor Fire Pit.
- vi. A minimum clearance of ten (10) feet or three (3) meters measured from the nearest fire pit edge is maintained from any structure or any combustibles (ie fences, trees, hydro poles) and property lines.

### 7.1 b) Outdoor Solid Fuel Fired Appliances

- i. Shall be fully enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other non-combustible materials
- ii. Shall be located on a flat level and non-combustible base and clear of overhangs such as roofs, tree branches or Utility wires.
- iii. Shall have an outdoor fuel chimney equipped with a non-combustible spark arrestor with openings no larger than  $\frac{1}{2}$  x  $\frac{1}{2}$  inch and covering the entire area of the chimney opening.

### 7.1 c) General Rules Affecting the Use of Outdoor Fire Pits and Outdoor Solid Fuel Fired Appliances

- i. Shall used only clean, dry wood or briquettes.
- ii. Shall not burn garbage, rubbish, debris, previously painted or treated wood or any fuel, which when burned result in the release of dense smoke or offensive odours plus any material as defined within the legislation of Canada or Manitoba as hazardous.
- iii. Shall be supervised and attended at all times by an adult.
- iv. Shall not be used in conditions of severe wind or when local circumstances make such fires a hazard or when Manitoba declares fires are not permitted.
- v. Shall have available on site a means of extinguishing a fire such as a portable fire extinguisher or garden hose.
- vi. Shall be extinguished before leaving the site.

- vii. Shall be limited in size so that they can be readily controlled.
- viii. Nothing in the by-law permits or authorizes any person to use a fire pit in a manner, which creates a nuisance to any other person.

**SECTION 8 – PERMITTED CONTROLLED FIRES**

8.1 Controlled fires may be permitted within the municipality under the following conditions:

- a) A permit is issued by a designated official of the Province of Manitoba per the regulation of Manitoba as amended from time to time.
- b) The landowner wishing to undertake a controlled burn obtains in writing:
  - i. Obtains the approval/consent of Manitoba Conservation for a Controlled Burn on a specific day or days and for a specific period during that day or days; and
  - ii. Obtains the approval/consent of the Chief of the Fire Department responsible for the delivery of Fire Suppression Services for a Controlled Burn on a specific day and for a specific period during that day or days; and
  - iii. The person provides notification to the Manitoba 911 Centre indicating the times, days and location of the Controlled Burn.

8.2 The landowner shall be responsible for any and all costs associated with a Fire Suppression Emergency Response to a Controlled Burn.

**SECTION 9 – FINES**

9.1 Any person who contravenes a provision of this by-law is committing an offence and is liable on conviction to the payment of a fine of not less than:

- a) Five Hundred Dollars (\$500.00) for the first offence;
- b) One Thousand Dollars (\$1,000.00) for the second offence;
- c) Fifteen Hundred Dollars (\$1,500.00) for the third offence;
- d) Two Thousand Dollars (\$2,000.00) for the fourth offence;
- e) Plus all costs associated with the provision of a Fire Suppression Emergency Response.

9.2 All fines and costs imposed on a prosecution under this by-law, are a debt owed by the person who set a fire and the owner of the property on which the fire was located, to the Municipality and may be recovered by the Municipality in a court of competent jurisdiction or may be collected by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act.

**SECTION 10 – REPEAL**

10.1 By-laws 10/04 and 14/03 and all amendments thereto are hereby repealed

Read for the first time on the 9<sup>th</sup> day of March, 2010 Res. No. 129/10

Read for the second time on the 22<sup>nd</sup> day of March, 2010 Res. No. 153/10

Read for the third time, done and finally passed on the 22<sup>nd</sup> day of March, 2010 Res. No. 154/10

Original signed by: \_\_\_\_\_  
Reeve George Harbottle

Original signed by: \_\_\_\_\_  
Chief Administrative Officer  
James Fenske