
BEING A BY-LAW OF GILBERT PLAINS MUNICIPALITY TO PROVIDE FIRE FIGHTING, FIRE PREVENTION, RESCUE SERVICES, EMERGENCY SERVICES AND TO REGULATE BURNING WITHIN THE MUNICIPALITY.

WHEREAS subsection 232(1) of *the Act* provides that a council may pass by-laws for municipal purposes respecting the following matters:

- (a) The safety, health, protection and wellbeing of people and the safety and protection of property;
- (i) Preventing and fighting fires;
- (o) The enforcement of by-laws;

AND WHEREAS Section 236(1) of *the Municipal Act* provides a By-Law passed under Section 232(1)(o) may include provisions for remedying a contravention of By-Laws, including;

- (i) Creating offences,
- (ii) Subject to Regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the By-Law,
- (iii) Providing that an amount owing under sub-clause (ii) may be collected in any manner in which a tax may be collected or enforced under the Act,
- (iv) Seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
- (v) Charging or collecting costs incurred in respect of acting under sub-clause (iv),
- (vi) Imposing a sentence of imprisonment for not more than six months for the commission of offences or non-payment of fines.

AND WHEREAS section 264 of *the Act* provides that every municipality must provide fire protection services within its boundaries to reduce the danger of fire, which may include education programs, inspections of property, the installation of alarms, instructions on fighting fires, the provision of firefighting equipment and a fire protection force;

AND WHEREAS section 268 of *the Act* provides that a fire protection force may, with the approval of the council, provide other services, including the prevention and release of illness and injury and the preservation of life and property;

AND WHEREAS, The Rural Municipality of Gilbert Plains has amalgamated with the Town of Gilbert Plains effective January 1st, 2015 under Regulation 144/2014 to form the Gilbert Plains Municipality;

NOW THEREFORE the Council of Gilbert Plains Municipality, in open council assembled enacts as follows:

PART 1: DEFINITIONS

Unless otherwise provided, or unless the context otherwise requires, words and expressions in this by-law have the same meaning and effect as they have in *The Municipal Act*, and in the Code.

In this by-law:

Administrators means each Department Chief and Deputy Chief or their designate.

Authority Having Jurisdiction (AHJ) means the Chief, Acting Chief, Deputy Chief, or the responsible municipal, provincial, or federal official with legal authority for controlling the subject referred to, which includes, without restricting the generality thereof, municipal Fire Prevention Officers and Fire Inspectors.

Burning Permit permit issued regulating outdoor and open air burning in burn permit areas.

CAO the Chief Administrative Officer of the municipality.

Designated Officer means the Fire Chief, acting Fire Chief, deputy Fire Chief, or the responsible municipal, provincial, or Federal official with legal authority for controlling the subject referred to including, without restricting the generality thereof, municipal Fire Prevention Officers and Fire Inspectors

Code means the Manitoba Fire Code being regulations No. 163/98 of *The Fires Prevention and Emergency Response Act*, R.S.M. 1987, c.F80, C.C.S.M. F80, as amended from time to time, or any subsequent Manitoba Fire Code which may be enacted.

Council means the council of Gilbert Plains Municipality

Department means the fire station or district within the Municipality.

Designate any person authorized by the AHJ to enforce this By-law on behalf of the AHJ.

Emergency Services includes, but is not limited to, all fire protection services and all services provided at the site of an emergency for the purpose of preserving life and property and protecting persons and property from injury or destruction by fire, preventing and extinguishing fires, investigating the cause and origin of fires, providing rescue services, providing emergency medical responses, providing transportation for victims (ambulance service), purchasing and operating apparatus and equipment for firefighting and the preservation of life and property, and preventing and mitigating other potential risks to life and property as defined by Council.

Fire Chief means the Fire Chief for the Municipality and anyone acting or authorized to act on his behalf.

Fire Inspector means the inspector or any other person or agency employed or appointed by Council to act for the Municipality and partially or wholly responsible for fire safety within the Municipality.

Fire/Protection Committee as established in Part VII; No. 4 of By-Law 2023-009.

Member means a firefighter or EMS provider or first responder engaged by the Municipality and includes a Member who is an officer.

Municipality means Gilbert Plains Municipality.

Officer the Fire Chief, any member of the Fire Service or any person on behalf of the AHJ, appointed as a fire guardian for purposes of The Wildfires Act.

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.

NFPA means National Fire Protection Association.

Owner in relation to real property, includes a person who is the owner of a freehold estate in the real property, including

- (a) The person identified on the certificate of title as a sole owner, joint tenant, or tenant in common of a freehold estate;
- (b) a person who is registered under *The Condominium Act* as the owner, as defined in the Act, of a unit under that Act;
- (c) a real owner, as defined in subsection 1(1) of *the Municipal Assessment Act*;

And further includes a person who is responsible for the real property and any person:

- (a) Managing a building, whether on his or her own account or as agent or trustee of any other person;
- (b) Who is receiving, is entitled to receive or would receive the rent for the building if the building were rented;

- (c) Who, despite having sold the real property under an agreement for sale, has paid any real property taxes on the property after the effective date of the agreement;
- (d) For the time being receiving installments of the purchase price of a property sold under an agreement for sale whether on his or her own account or as an agent or trustee of any other person; and
- (e) Who would receive the installments of the purchase price if such land or premises were sold under an agreement for sale;

Person includes a firm, partnership, association or other body, whether incorporated or unincorporated;

Property means the total of all contiguous land described in a single certificate of title;

Suitable Container or Enclosed Fire Pit or Receptacle means an area or container enclosed on all sides made of non-combustible materials that is a minimum of 12" in height or depth. The ground around the receptacle be maintained and kept free of combustibles that could contribute to fire spread. Used for the purpose of leisure campfires and the burning of natural, untreated wood logs not extending beyond container.(removed the 3 foot buffer)

Wildfire means the period in each year commencing on April 1st and ending on November 15th or any other period of time that may be designated by the AHJ.

PART II: ADMINISTRATION

1. ADOPTION OF FIRE CODE

- 1.1 The Municipality hereby adopts the Code, as part of this by-law, save and except such portions as are hereinafter deleted, modified or amended. Any reference to this by-law shall be construed as a reference to the whole by-law, including the Code.

2. FIRE ALARM SYSTEM

- 2.1 Monitored alarm systems shall be maintained at all times in proper operating condition and tested in accordance with the requirements of the Code.
- 2.2 Where the Fire Department attends in response to a fire alarm call which is an apparent false alarm, the Fire Chief, or in his absence the senior officer of the Fire Department present at the scene, will attempt to contact the property owner or other designated person to attend and secure the premises. Where unable to contact the property owner or designated person, then a security guard may be called in to perform fire duty at the expense of the owner. The total cost of restoration of any fire alarm equipment, and related costs of hiring a security guard or any fire-watch service, shall be the responsibility of the owner or his insurer. If the owner cannot be located to pay this bill then all costs may be added to the real property taxes for the premises and collected in the same manner as normal taxes.

3. RECOVERY OF COSTS

- 3.1 Subject to any agreements to the contrary, where any type of Emergency Services have been taken within the Municipality, including responding to a false alarm, the Municipality may, in respect of any related costs incurred in taking such action, charge such costs to the person who caused the fire or incident, or the owner or occupant of the land or property in respect to which the action was taken. Further, the Municipality may proceed to collect any costs as against the person by any means available to it in law for the collection of outstanding taxes, including, without limitation, adding the costs to the realty taxes on any property owned by the person within the Municipality. Costs may be set and updated by resolution on an as needed basis.

4. DELEGATION OF AUTHORITY

4.1 **THAT** the Authority Having Jurisdiction, Chief Administrative Officer or designate of the Gilbert Plains Municipality be appointed as Officers for the purpose of enforcing provincial statutes, regulations as well as this By-law.

5. BURNING PERMIT REQUIREMENTS

5.1 **THAT** no person shall start an Outdoor Fire within the boundaries of the Gilbert Plains Municipality, without first obtaining a Burning Permit, from the Gilbert Plains municipal office; Schedule A.

5.2 All burning within the municipality shall be subject to the conditions and provisions of *The Wildfires Act*, and the Manitoba Crop Burning Residue Burning Regulation – MR 77/93, including but not limited to, the following conditions, and those conditions specifically set out within the Burning Permit.

- 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. RESPONSIBILITIES OF PERMIT HOLDER

6.1 **AUTHORIZATION** to conduct Outdoor Fire burning does not exempt or excuse a person from the responsibility, consequences, damages, or injuries resulting from the authorized burning and does not excuse a person from complying with other applicable laws, ordinances or regulations.

7. EXEMPTION FROM BURNING PERMIT

7.1 Fires that are set in an outdoor fire pit or solid fuel burning appliance, set for cooking or warmth and would normally be considered a campfire, are for the purposes of this By-law, exempt from a Burning Permit, but must adhere to the following conditions:

- a) Any fire that is set in a fire pit or solid fuel appliance shall be enclosed on all sides and constructed of masonry, concrete, heavy gauge metal or other non-combustible materials.
- (b) The fire pit or solid fuel appliance shall be covered with a non-combustible grate or mesh. If the fire pit or solid fuel

appliance is equipped with a chimney, it shall have a non-combustible mesh or spark arrester installed.

- (c) The fire pit or solid fuel appliance shall be located on a flat, level and non-combustible base clear of overhangs, such as roofs, tree branches, or utility wires.
- (d) A minimum clearance of 10 meters, measured from the nearest fire pit edge is maintained from any structures or any combustibles (ie. fences, trees, hydro poles) and property lines.
- (e) Solid fuel appliances shall be installed to manufacturer's specifications with any required distance to a structure or combustible of at least 10 meters.
- (f) All Burning Permits are copied to the respected Fire Chief of their designated area.
- (g) All Permittees are required to receive verbal permission from the respected Fire Chief.
- (h) At their discretion, the Fire Chief may ask for an inspection of the permit and burn area prior to ignition.

8. BURNING BAN

8.1 The CAO in conjunction with the Fire Chief at their discretion, may ban ALL BURNING (including an Outdoor Fire and fires contained within fire pits and solid fuel burning appliances) in the Gilbert Plains Municipality if conditions exist where, in the opinion of the municipality, fires are of extremely high risk, and such a ban would prevent wildfires from occurring.

PART III: EMERGENCY SERVICES

1. PURPOSE

1.1 Emergency services are hereby established for the purposes of:

- (a) preventing and extinguishing fires;
- (b) investigating the causes of fire;
- (c) preserving life and property, and protecting persons and property from injury or destruction by fire;
- (d) providing rescue services;
- (e) entering into agreements with other municipalities or persons for the joint use, control, and management of fire extinguishing apparatus and equipment; and,
- (f) purchasing and operating apparatus and equipment for extinguishing fires or preserving life and property.

2. AGREEMENT FOR EMERGENCY SERVICE

2.1 The Municipality may elect to enter into an agreement, pursuant to the authorization granted by section 266 of *The Municipal Act*, with another municipality to provide or have provided emergency services to include emergency medical/first responder and rescue services. Such agreements will require the prior approval of Council.

3. RESPONSE OUTSIDE THE MUNICIPALITY

3.1 A Department will not respond to any call with respect to a fire or an emergency outside' the municipal boundaries except with respect to a fire or emergency:

- (a) that in the opinion of the Chief threatens property in the Municipality or property situated outside the Municipality that is owned or occupied by the Municipality;
- (b) in a municipality with which an agreement has been entered into to provide emergency response;
- (c) in a municipality which forms part of a Mutual Aid District for which the Municipality is a member;
- (d) on property with respect to which an agreement has been entered into with any person or corporation to provide fire protection thereafter;

- (e) for which the head of Council or Chief has first authorized such attendance; or,
- (f) under such circumstances it appears human life is in jeopardy.

PART IV: GENERAL

1. TAMPERING AN OFFENCE

- 1.1 (a) It shall be an offence for any person, other than a Member of a Department authorized by Council, to tamper with, damage, or discharge any fire prevention, fire suppression, or rescue apparatus, or move any such apparatus from its allocated location.
- (b) The Fire Chief may prescribe the limits within the vicinity of a fire that any person or vehicle may be permitted to enter, and may authorize any police officers present to close off such portions of streets or lanes as he deems necessary.
- (c) No person shall without permission, enter the limits prescribed by the Fire Chief in accordance with subsection (b).
- (d) No person shall in any way impede or hinder any officer or member of the Fire Department or any other person enacted in or assisting at the extinguishing of any fire or engaged in any duty connected therewith.
- (e) No person engaged in fighting a fire, whether or not, be it a member of the Fire Department, shall neglect or refuse to obey a lawful order of the Fire Chief.

2. REQUESTING ADDITIONAL ASSISTANCE

- 2.1 The Chief, or in his absence, the senior officer of the Department present at any fire, shall have the right and authority to request from any able-bodied adult person assistance in extinguishing fires and controlling the spread of fire, and any such person, while acting under the direction of the Chief or said senior officer, shall be deemed a volunteer of the Department.

3. REQUESTING ADDITIONAL EQUIPMENT

- 3.1 The Chief, or in his absence, the senior officer of the Department present at any emergency incident, shall have the right and authority to authorize payment for the possession or use of any equipment or resource for the immediate purpose of fighting a fire or preserving life.

4. COMMANDERING EQUIPMENT

- 4.1 The Fire Chief or District Fire Chief, or in his absence, the senior officer of the Fire Department present at any fire or providing any other Emergency Service, shall have the right and authority to commandeer and authorize payment for the possession or use of any equipment for the immediate purpose of fighting a fire or providing any other Emergency Service.

PART VI: FIRE PREVENTION STANDARDS

1. ACCESS FOR INSPECTION

- 1.1 The Authority Having Jurisdiction may, at all reasonable times, enter any premises for the purpose of making an inspection, and any person in charge of the premises shall allow the Authority Having Jurisdiction free access thereto, as per *The Fires Prevention and Emergency Response Act*.

2. PREVENTION OF FIRE SPREAD

- 2.1 The Chief, or in his absence, the senior officer of the Department present at any fire shall have the right and authority to enter, pull down, demolish or take whatever action is necessary to any house, building or structure, directly or indirectly affected, where deemed reasonably necessary for the purpose of

extinguishing a fire or to control or prevent the spread of fires or in conjunction with dangerous goods or rescue.

3. STORAGE OF CONTAINERS

3.1 All boxes, crates, petroleum barrels and other containers, empty or otherwise, packing materials, or other materials used or kept in any building or on any lot, shall be:

- (a) So stacked or piled as to keep them clear of windows and doors to provide for clear ingress and egress to and from any part of the premises or building;
- (b) Kept away from any source of ignition;
- (c) Removed forthwith if determined to constitute a fire hazard or deemed to pose a risk to attending emergency services personnel by the Authority Having Jurisdiction to such location as authorized by the Code.

4. PROPERTY MAINTENANCE

4.1 All buildings and properties shall be adequately maintained in accordance with standards established by the Office of the Fire Commissioner, in order to guard against fire or the risk of fire.

5. PORTABLE FIRE EXTINGUISHERS

5.1 Portable fire extinguishers shall be:

- (a) provided and located in accordance with the requirements of the Code;
- (b) maintained and/or hydro-statically tested in accordance with the requirements of the Code.

6. CHIMNEY PIPES

6.1 All chimneys and pipes for fireplaces or wood stoves shall be installed in conformance with the Code and must be cleaned regularly to prevent a buildup of creosote. Where the Fire Chief deems it necessary he may give notice to any owner requiring the cleaning of any chimney or pipe and where such order is not complied with within ten (10) days the Fire Chief may cause the work to be done and the cost therefor shall be the responsibility of the owner.

7. Flammable and/or Combustible Liquid Storage and Storage of Hazardous Materials

7.1 (a) Prior written permission from the Fire Chief shall be required for the storage of flammable and/or combustible liquids or hazardous materials in excess of the amounts permitted in the Code.

(b) All new houses, including single family houses, duplexes, apartments or mobile homes must have a fire alarm system which is wired into the houses electrical system. This provision also applies to any house that is being substantially rebuilt, or moved into the municipality.

PART VII: ADMINISTRATION AND ENFORCEMENT

1. INTERFERENCE WITH ENFORCEMENT OFFICERS PROHIBITED

1.1 (a) No person may interfere or attempt to obstruct an enforcement officer who is engaged in his or her duties and enforcing any parts of this By-Law.

(b) No person may refuse to provide personal identification when requested to do so by an enforcement for the purpose of issuing a document to initiate a prosecution against an individual for a contravention of this By-Law to establish an individual's name and address.

2. GENERAL PROHIBITIONS

2. (a) No person shall:

- (i) Interfere with any fire hydrant, in any manner whatsoever unless authorized by a designated officer of the Municipality.
- (ii) Drive over or park on or over a fire hose unless directed by an authority or designated officer of the Municipality.

2. POWERS OF ENFORCEMENT OFFICERS AND DESIGNATED OFFICERS

3.1 (a) Designated Employees and Enforcement Officers have authority to conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-Law in accordance with *the Municipal Act* and, for those purposes, have the powers of a designated employee under *the Municipal Act*.

4. APPEALS

4.1 (a) A person or corporation may appeal a fine or Order imposed under this By-Law in the form of a written letter addressed to the Chief Administrative Officer and the designated committee of the Municipality for an offence, no later than 14 days after the date of the offence.

(b) The Chief Administrative Officer and the designated committee have the authority after hearing all evidence from both the Enforcement Officer/Designated Officer and the person or corporation receiving a fine or order, to make such a ruling as to cancel the fine or order, decrease the fine or order, or demand the fine or order to be paid or the Order be remedied as instructed.

5. PRESET FINES AND PAYMENT OPTIONS

5.1 (a) A person who contravenes a provision of this By-Law referred to in Schedule B, which is attached to and forms part of this By-law, is guilty of an offence and is liable, upon summary conviction, to the preset fine set out in the column identified as setting out a preset fine, plus any mandatory fees and costs as provided by The Summary Convictions Act, for the contravention of that provision.

(b) The Municipality may elect to collect any unpaid outstanding fines via a collection agency after 90 days of default by any person or Corporation having a debt owed to the Municipality.

PART VIII: PENALTY PROVISION

1. PENALTY

1.1 (a) Every person found guilty of a breach of any provision of this By-Law, unless a penalty or fine is specifically provided therefore, shall be liable to a fine not exceeding \$1,000.00 in the case of an individual, or not exceeding \$5,000.00 in the case of a corporation, in addition to costs.

(b) If an order is made under this by-law it shall be in writing and signed by the Designated Officer. An order may be directed to the owner, occupier or lessee of the subject building or property in respect of which it is made or to any or all of them.

(c) Any order made under this by-law shall be served:

- (i) personally upon the person to whom it is directed; or
- (ii) by registered or regular mail; or
- (iii) by posting a copy of the order in a conspicuous place on the building or property if the person to whom it is directed cannot

be found, is not known, or refuses to accept service of said order.

In the case of service by regular mail the order shall be deemed to have been received on the fifth business day subsequent to the date it is mailed.

- (d) Any person who contravenes or disobeys, or refuses or neglects to obey:
 - (i) any provision of this by-law, or any provision of any other by-law that by this by-law is made applicable to proceedings taken or things done under this by-law; or
 - (ii) any provision of any by-law, Regulation or Order enacted or made by Council; or
 - (iii) any Order made by this by-law;
- (e) Any person who hinders or obstructs the By-Law Enforcement Officer or Designated Officer in the exercise of his duty is guilty of an offence and liable on summary conviction to a fine of not less than \$100.00 or more than \$1,000.00, and in default of payment of the fine, to imprisonment for a term not exceeding fourteen (14) days.
- (f) It is an offense to contravene any provisions of this By-law. Any conviction of an offence is subject to a penalty as listed in Schedule B herein.
- (g) Where a person is in contravention under this By-law, in addition to imposing a fine, the municipality is entitled to be reimbursed by the person(s) for costs incurred by the municipality in fire protection and suppression operations that were undertaken as a result of the person(s) acts or omissions that resulted in the costs to be incurred.
- (h) The Municipality may refuse the issuance of a permit if the person has repeated offences.

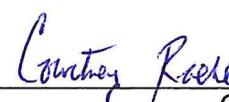
PART IX: REPEAL AND ENACTMENT

- 1.1 Any other unrepealed Fire Service By-Law be hereby repealed.
- 1.2 This by-law shall come into force and take effect upon the passage thereof.
- 1.3 Should any provision of this by-law or the Code hereby adopted be declared to be invalid by a court of competent jurisdiction, it is the intent of Council that it would have passed all other provisions of the by-law and the Code independent of the elimination of any such portion as may be declared invalid

DONE AND PASSED, in Council duly assembled, in Gilbert Plains, Manitoba, this 19th day of September, A.D. 2023.

Read a first time this 8th day of August, 2023
Read a second time this 29th day of August, 2023
Read a third time this 19th day of September, 2023


Reeve Jim Manchur


Courtney Roehl
CAO Courtney Roehl

Schedule A
Burn Permit

Permit No: _____

**Gilbert Plains Municipality
Permit to Burn**

AUTHORITY IS HEREBY GRANTED TO _____ OF _____
for the following locations: _____ 1/4 Section _____ Township _____ Range _____ Gilbert Plains Municipality
to set fire and burn Grass _____ Stubble/Crop _____ Brush _____ Other _____
on the above mentioned property between the _____ day of _____ and the _____ day of _____
subject to the following conditions and the provisions of ***The Wildfires Act*** and ***Municipal By-Law # 2023-009***

1. To keep fire under control at all times.
2. To bear responsibility for all property damage which may result from burning done under this permit.
3. To fireguard the area as required under the terms of ***The Wildfires Act***.
➤ Fire is surrounded by a minimum six meter wide strip of land free of inflammable material
4. No fire to be set out on any day before _____ o'clock _____ AM _____ PM
5. No fire to be set with winds over _____ km/h;
6. Yes No Permittee must call the Crop Residue information line daily before burning (204)745-5646
7. Permission must be granted from the Fire Chief prior to igniting.
8. The Fire Chief may request an onsite inspection, prior to approval.

Issued at _____
Signature _____ Authorized Officer _____
Date issued _____ 20____ Municipal Phone No. _____

Declaration of Permittee: I understand the conditions under which this permit is issued and agree to abide thereby. Failure to comply with conditions and provisions will lead to penalties as listed in By-Law 2023-009.

Signature of Permittee _____ Phone Number _____
Fire Chief: _____ Phone No.: _____
Deputy Chief: _____ Phone No.: _____

Schedule B
Offences and Fines

Section No.	Offence	First Offence	Second Offence
3.1	Failure to obtain a burn permit (no fire department response)	\$100.00	\$500.00
3.2	Failure to comply with burn permit (no fire department response)	\$100.00	\$500.00
4.1	Firefighting response (with permit)	\$500.00	\$1,000.00
5.1	Firefighting response (contained pit)	\$500.00	\$1,000.00
6.1	Burning during a burn ban	\$100.00	\$500.00
6.1	Burning during a burn ban (with firefighting response)	\$1,000.00	\$2,000.00