

# THE RURAL MUNICIPALITY OF GRAHAMDALE

## BY-LAW NO. 1028-2020

### BEING A BY-LAW FOR FIRE PREVENTION AND REGULATION OF BURNING WITHIN THE RURAL MUNICIPALITY OF GRAHAMDALE

WHEREAS Section 232(1) of *The Municipal Act* provides that 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
- (o) Enforcement of By-Laws

AND WHEREAS Section 270 of *The Municipal Act* provides that a fire protection force may take such action as it considers reasonably necessary, including using any real or personal property, entering a building or upon land and demolishing or removing a building, tree, structure or crop to provide fire protection services and, subject to council's approval under section 268, to prevent injury and to preserve life and property;

AND WHEREAS Section 252 (1) of *The Municipal Act* provides that a Municipality exercising powers in the nature of those referred to in clauses 250(2)(b),(c), and (e) may set terms and conditions in respect of users including:

- (a) Setting the rates or amounts of deposits, fees and other charges and charging and collecting them

AND WHEREAS it is deemed expedient and advisable to pass a by-law to provide for the protection of life and property from damages by fire and to regulate burning within the Rural Municipality of Grahamdale.

NOW THEREFORE the council of the Rural Municipality of Grahamdale, in session assembled, enacts as follows:

#### DEFINITIONS

- 1.0 (a) Unless otherwise 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 *Act* and in the Code.
- (b) In this By-law, words importing the singular number only shall include the plural and vice versa, and words importing gender shall include all genders.
- (c) In this by-law:
- (1) "ACT" means *The Municipal Act* S.M. 1996, c.58, C.C.S.M. c.M225 as amended from time to time.
  - (2) "Authority Having Jurisdiction (AHJ)" means the municipal council and the duly appointed agents thereof.
  - (3) "Council" means the duly elected Reeve and Councillors of The Rural Municipality of Grahamdale.
  - (4) "Contained Fire" means a fire that is started in, and remains contained within, a container or fire pit).
  - (5) "CAO" means the Chief Administrative Officer of the municipality.
  - (6) "Designated" means any person authorized by the AHJ to enforce this by-law on behalf of the AHJ.
  - (7) "Fire" means any type of fire, including a wildfire.

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- (8) "Officer" means 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, C.C.S.M., W128*.
- (9) "Outdoor Fire" means an uncontained fire that is started outdoors but does not include contained fires.
- (10) "Outdoor Solid Fuel Appliance" means an appliance, portable or fixed in place, constructed of non-combustible materials, which contains a chamber located within the firebox of the appliance used to contain a combustion flame, a stack to control the flow of air or combustion gases from the appliance, a spark arrester located at the end of the stack to control disbursement of sparks, and is enclosed on all sides to arrest sparks.
- (11) "Land" means property in the Rural Municipality of Grahamdale, including both property located within a village and rural property.
- (12) "Municipality" means The Rural Municipality of Grahamdale.
- (13) "Wildfire" means an outdoor fire that is burning out of control or that an officer believes may burn out of control.

### DELEGATION OF AUTHORITY

- 2.0 THAT the Authority Having Jurisdiction, Chief Administrative Officer or designate of the Rural Municipality of Grahamdale be appointed as officers for the purpose of enforcing provincial statutes, regulations as well as this by-law.

### RESPONSIBILITIES

- 3.0 All burning within the municipality shall be subject to the conditions and provisions of *The Wildfires Act*, and the *Manitoba Crop Burning Residue Regulation – MR 77/93*.
- 3.1 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.
- a) Any Outdoor Fire shall be supervised, on site, 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 such as:
    - i) Wind Velocity is not in excess of 10 MPH (16 km/h)
    - ii) The smoke from an Outdoor Fire shall not pose unreasonable hazard to the health of any person or livestock or reduce the visibility on any road or highway.
  - d) No person shall cause an Outdoor Fire to be started in order to guard property; clear land or burn debris, crops, stubble or grass, unless the land on which the fire is started is completely surrounded by a strip of land not less than 6 metres (20ft) wide, and

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- i) The strip of land is free of flammable material at least 20ft in width between the area to be burned and:
    - a) a maintained municipal road allowance
    - b) any uncultivated lands contiguous to the area to be burned off or
    - c) the common boundary shared by the area to be burned off and other lands whether cultivated or not.
  - ii) Or the strip of land is covered by snow or water, or
  - iii) by natural or man-made barriers, water, or
  - iv) by a combination of (i) and (ii).
- e) No person shall
- i. Light a fire in a fire pit or burn garbage in a container, unless it is suitable for that purpose providing:
    - a) that the wind velocity does not exceed 16 km/h (10mph)
    - b) the fire pit or container has a minimum clearance of 3 meters (10 feet) measured from the nearest fire pit edge from any combustible buildings or sheds or other combustible structures such as fences, trees and hydro poles.
    - c) A minimum of 3 meters (10 feet) shall be maintained from neighboring property lines.
  - 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.

### BURNING PERMITS

- 4.0 No person shall, between January 1<sup>st</sup> and December 31<sup>st</sup>, light an outdoor fire in any area of the Municipality without first obtaining a permit from the Municipality for the intended burning excluding for the purposes listed in 3.1 (e)(i).
- 4.1 The permit shall be in the form set forth in Schedule "A" attached to this by-law.
- 4.2 The Municipality may revoke or prohibit the issuance of burning permits as it sees fit.
- 4.3 Upon receiving notice of the cancellation or suspension of a burning permit, the permittee shall refrain from setting out further fires and shall extinguish or fireguard, to the satisfaction of the Councillor of the Ward, any fire set out under the authority of such permit.
- 4.4 A Councillor may revoke or suspend a burning permit at any time.
- 4.4.1 Any person who has had their burning permit revoked or suspended by the Councillor may, within five days of the permit being revoked, submit a written appeal to Council of the Rural Municipality of Grahamdale for consideration at its next regular meeting.
- 4.5 The possession of a burning permit does not reduce the responsibility of the permittee for the control of a fire set out under the authority of the permit.

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### BURNING BAN

- 5.0 The municipality may, by resolution, at their discretion, ban all burning (including fires contained within fire pits, burn containers and solid fuel burning appliances) in the Rural Municipality of Grahamdale 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.
- 5.1 The municipality may, by resolution, at their discretion, ban any and all off road travel within the Rural Municipality of Grahamdale 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.
- 5.2 If a burn ban is in place, no person shall light a fire or travel off road in any area of the municipality.

### OFFENCE AND PENALTIES

- 6.0 Any person who contravenes a provision of this by-law is committing an offence and liable for payment of a penalty notice of (this includes burning without a permit):
- a) One hundred dollars (\$100.00) for the first offence.
  - b) Two hundred dollars (\$200.00) for the second offence.
  - c) three hundred dollars (\$300.00) for the third offence; and
  - d) Five hundred dollars (\$500.00) for each subsequent offence.
- 6.1 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.
- 6.2 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*.
- 6.3 Where a person is in contravention under this by-law the municipality is entitled to be reimbursed by the person(s) for costs of repairing any damages incurred to municipal property as a result on the contravention.
- 6.4 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 not less than \$500.00 per hour or part thereof.
- 6.5 Any person who hinders or obstructs the Authority Having Jurisdiction in the exercise of his or her duty is guilty of an offence and liable on summary conviction to a fine of not less than \$100.00 and not more than \$1,000.00.

### REPEAL

- 7.0 That By-Law No. 1003-2018 is hereby repealed.

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VALIDITY OF BY-LAW

- 8.0 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 as a by-law of the Rural Municipality of Grahamdale, in Council duly assembled, at Moosehorn, in Manitoba, this 8<sup>th</sup> Day of October, 2020.

THE RURAL MUNICIPALITY OF GRAHAMDALE

  
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Craig Howse, Reeve

  
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Shelly Schwitek, Chief Administrative Officer

Read a first time this 24th Day of September, 2020.

Read a second time this 24th Day of September, 2020.

Read a third time this 8<sup>th</sup> Day of October, 2020.