

BYLAW NO. 2138-15

THE CITY OF WINKLER FIRE PREVENTION AND EMERGENCY SERVICES
BY-LAW 2138-15
INCLUDING AMENDMENTS TO JUNE 2015

**THE COUNCIL OF THE CITY OF WINKLER
ENACTS AS FOLLOWS:**

THE CITY OF WINKLER

FIRE PREVENTION AND EMERGENCY SERVICES BY-LAW 2138-15

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PART 1
PURPOSE AND STATUTORY AUTHORITY

1. Purpose

The purpose of this Bylaw is to:

- a. continue the Department as an established department of the City;
- b. provide for fire prevention, suppression and protection services;
- c. provide for the storage and handling of flammable liquids, combustible liquids, dangerous goods, hazardous substances and waste dangerous goods;
- d. provide for inspections of buildings, structures and premises in relation to fire safety;
- e. provide for rescue and emergency response services;
- f. regulate the sale and use of fireworks;

2. Statutory authority

- a. Subsection 232(1) of the Municipal Act provides that council may pass by-laws for municipal purposes respecting the safety, health, protection and well being of people and the safety and protection of property, preventing and fighting fires, and the enforcement of by-laws.
- b. Section 264 of the Municipal 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 fire fighting equipment and a fire protection force.
- c. Section 268 of the Municipal 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;
- d. The Fire Preventions and Emergency Response Act, RSM c.F80, C.S.S.M. c.F80

PART 2
DEFINITIONS AND ADMINISTRATIVE REQUIREMENTS

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.

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.

1. Definitions in this Bylaw:

- “ACT” means The Municipal Act S.M. 1996, c.58, C.C.S.M. c.M225 as amended from time to time.
- “authority having jurisdiction” as referred to in the Fire Code means the Fire Chief;
- “Chief of Police” means the Chief of the Winkler Police Service and anyone acting or authorized to act on his or her behalf;
- “City” means the municipal corporation of the City of Winkler or the geographical area within the City limits, as the context requires;
- “City Manager” means the person appointed to the position of City Manager by Council;
- “Council” means the Council of the City;
- “Department” means the Winkler Fire Department;
- “facility” includes a group home, child care home, personal care home, private service home and a residential-service facility;
- “federal regulations” means the regulations passed pursuant to the Explosives Act;
- “firecracker” means any object containing any substance or combination of substances prepared for, capable of, or discharged for the purpose of producing an explosion without a pyrotechnics display, including cannon crackers, firecrackers, mines, squibs and torpedoes;
- “Fire Alarm System” means a system consisting of a control unit and a combination of electrical interconnected devices, which are designed and intended to detect a fire condition and to actuate an alarm or fire in a building or structure; or manually activate and includes the systems installed throughout any building or structure;
- “Fire Chief” means the appointed or employed person by the City, and anyone authorized or delegated to act on behalf of the Fire Chief.
- “FIRE DEPARTMENT” means the Fire Department for the Municipality, and includes any part-time, composite (any combination of full-time, part-time or volunteer) or a volunteer fire department.

- “fire inspector” means an officer who is employed by the City and authorized by the Fire Chief to act as a municipal inspector for the purposes of The Fire Prevention and Emergency Response Act and this Bylaw;
- “Fire Protection Systems” means Fire Alarm Systems, sprinkler systems, special extinguishing systems, standpipe and hose systems, and emergency power installations.
- “fireworks” means explosives that are enclosed in any case or contrivance, or are otherwise manufactured or adapted for the production of pyrotechnic effects, pyrotechnic signals or sound signals and includes any chemical compound or mechanically mixed preparation of an explosive or of an inflammable nature that is used for the purpose of making such explosives, but does not include firecrackers;
- “fireworks display” means a display of fireworks intended for the entertainment of the general public or in open view of the general public;
- “lessee” means a person who leases a building or land and includes an occupant, tenant, or subtenant;
- “low hazard recreational fireworks” means fireworks classed as Subdivision 1 of Division 2 fireworks in the federal regulations comprised of low hazard fireworks generally used for recreation, such as fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes and sparklers, but does not include Christmas crackers or caps for toy guns;
- “Building Code” means The Manitoba Building Code including any amendments made to it from time to time, unless otherwise modified by this Bylaw
- “Fire Code” means The Manitoba Fire Code, including any amendments made to it from time to time, unless otherwise modified by this Bylaw.
- “NFPA” means the National Fire Protection Association;
- “owner” means a person who has any right, title, estate or interest in land or buildings other than that of a mere occupant, lessee, tenant or mortgagee;
- “peace officer” means a peace officer as defined in The Highway Traffic Act;
- “person” includes a corporation and the heirs, executors, administrators or other legal representatives of a person;

2. Interpretation

It is the purpose of this by-law to establish the standards for fire prevention; fire fighting and life safety in buildings; the prevention, containment and fighting of fires originating outside buildings which may present a hazard to all or any part of the Municipality; the operation of Emergency Services and the transportation and storage of flammable and combustible substances.

Except as modified by this bylaw, it is declared that the Manitoba Fire Code as revised and amended from time to time is in force within the City of Winkler.

3. Local Assistant

The Fire Chief of the Department is the Local Assistant, and the Authority having Jurisdiction, as defined in The Fire Prevention and Emergency Act, and is continued by this Bylaw.

4. Continuation of the Winkler Fire Department

The Department is continued as an established department of the City, and is to be comprised of a Fire Chief, Deputy Fire Chief and such other Fire Department “paid on call” personnel and volunteers as from time to time may be deemed necessary by the Fire Chief.

Subject to the provisions in this Bylaw, the Fire Department is authorized to provide the following services:

- Fire Suppression & Rescue
- Medical Response – EMR level
- Water Rescue
- Vehicle Extrication & Rescue
- Hazardous Materials Response – Technician Level
- Confined Space Rescue
- High Angle Rescue
- Trench Rescue
- Farm Accident Rescue
- Aircraft Extrication & Rescue

The Winkler Fire Department is to provide the following additional Services

- Fire Investigations
- Fire Prevention & Inspection
- Public Education

5. Agreements & Contracts

The Municipality may elect to enter into an agreement with another Municipality to provide or have provided Emergency Services. Such agreement requires prior authority of the Council.

6. Response outside Municipality

The Fire 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 Fire Chief threatens property in the City or property situated outside the City that is owned or occupied by the City; or
- b) In a Municipality with which an agreement has been entered into to provide fire protection services or Emergency Services; or
- c) In a Municipality which forms part of a mutual aid agreement for which the City is a member; or
- d) On property with respect to which an agreement has been entered into with any person or corporation to provide fire protection therefor; or
- e) For which the head of council has first authorized such attendance; or
- f) Under such circumstances as it appears human life is in jeopardy;
- g) Upon request for assistance from the Office of the Fire Commissioner or some other properly designated office of the Province of Manitoba.

7. Requiring Additional Assistance

The 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 require any able-bodied adult person to assist in extinguishing fires, to assist in the control of spread of fire and to assist in any other required Emergency Services and any such person, while acting under the direction of the Fire Chief, shall be deemed a volunteer of the Municipality.

The Fire Chief may also request Mutual Aid assistance for which an agreement has been signed and authorized by Council

8. Commandeering Equipment

The 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.

9. Prevention of Fire Spread & Tampering with Equipment

- a) The Fire Chief, or in his absence, the senior officer of the Fire Department present at any fire shall have the right and authority to enter, pull down or demolish any house of 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.
- b) It shall be an offence for any person, other than the Authority Having Jurisdiction or a Fire Fighter in the course of duty, to turn on or interfere with any fire hydrant, in any manner whatsoever.
- c) It shall be an offence for any person to tamper with, damage, or discharge any fire prevention, fire suppression, or rescue apparatus, or move any such apparatus from its allocated location, without the permission of the Fire Chief.

10. Duties of the Fire Chief

The Fire Chief is the head of the Department and is also a local assistant as defined in The Fire Prevention and Emergency Response Act

- a) The Fire Chief is responsible for and shall carry out the daily administration and operations of the Department and may make any policies, regulations or operating procedures where necessary.
- b) The Fire Chief shall administer and enforce this Bylaw within the City
- c) The Fire Chief reports to the City Manager & the City Fire Committee

11. Inspection Services

- I. In addition to the authority provided to conduct inspections pursuant to The Fire Prevention and Response Act, the Fire Chief or a fire inspector may carry out inspections:

- a) on behalf of and at the request of an owner or operator of a facility where an inspection, letter of approval or report with respect to the fire safety of the facility is required
 - b) as required by the Fire Commissioner pursuant to provincial legislation; or
 - c) as outlined in the fire departments fire prevention plan
- II. 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.

The purpose of conducting an inspection is to:

- a) protect the residents and clients of the facility, as they are vulnerable members of the community;
 - b) ensure that the structure, equipment and maintenance of the facility complies with The Fire Prevention and Response Act, and The Manitoba Fire Code Regulations and this Bylaw; and
 - c) assist in determining if the operator or owner of the facility is satisfying the licensing requirements relating to fire safety set out in provincial legislation.
- III. Notwithstanding any other provision of this bylaw, where in the course of an inspection or investigation under this bylaw, the Fire Chief or his designate is of the opinion that a condition exists creating a serious danger to life or property, the Fire Chief or his designate may:
- a) Use any measures appropriate to remove or lessen the condition
 - b) Evacuate the building, structure, or area which has been considered appropriate
 - c) Close a building or area that is considered a serious danger to life and property
 - d) Costs of such an action is the expense of the property owner

PART 3
FIRE PREVENTION & LIFE SAFETY

1 Smoke Alarms & Fire Protection Systems

Smoke Alarm and Fire Protection Systems including fire extinguishers shall be installed, maintained and inspected as required by the Manitoba Fire Code.

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 office 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.

False alarms pose a threat to the safety of responding Winkler Fire Department members, and members of the public, by creating unnecessary hazards and possibly delaying the Fire Department response to other potential emergencies. It is determined the advisability of setting a recovery charge for such false alarms and outlined in the FLASE ALARM BY-LAW 2076-12.

2. Accumulation of hazardous, combustible & flammable materials

All boxes, crates, petroleum barrels and other containers, empty or otherwise, packing materials, or other material 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 by the Authority Having Jurisdiction to such location as authorized by the Authority Having Jurisdiction.

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.

All buildings and properties shall be adequately maintained in order to guard against fire or the risk of fire.

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.

3. Open air fires & Burn Permits

The regulations for open air fires & burning within City limits are to be in compliance with the BURNING BYLAW 2079-12. The Fire Chief is authorized to impose a burning ban should conditions arise.

Fire Pits and Outdoor Fireplaces shall also meet the requirements of the BURNING BYLAW 2079-12.:

4. Vacant and fire damaged buildings

- a. In accordance with the Code, all vacant buildings shall be secured against unauthorized entry
- b. Where a building is damaged by fire, the owner of the building shall secure the building against unauthorized entry immediately after the fire has been put out.
- c. Where the owner is unavailable or fails to comply with sentence a), the City may secure the building and add the expenses and costs incurred by the City to the tax roll of the parcel of land upon which the building is located.

5. Street number addresses

Every owner of a building shall install the street number for that building on the front of the building or in some other conspicuous location in front of the building so that the street number is legible and visible from the street.

6. Maintenance of Hydrants

No person shall erect, place, allow or maintain a fence, shrub, tree or other object within one metre of a hydrant.

7. Barbecuing

- I. Every person who uses a barbecue or similar device shall:
 - a) Use the barbecue in a reasonable manner
 - b) Keep the barbecue when lit a sufficient distance from all combustible materials
 - c) Refrain from leaving the barbecue when lit

- d) Keep the barbecue in a reasonable state of repair
 - e) Comply with all federal and provincial regulations governing the use and storage of propane tanks.
- II. In addition to the requirements in subsection I, if any person uses a barbecue or similar device on a balcony, the following provisions apply:
- a) Solid fuel barbecues and devices shall not be used
 - b) Propane cylinders shall not exceed the 20 pounds size
 - c) Propane cylinders shall not be stored within the building
 - d) Propane cylinders shall be shut off at the tank when not in use
 - e) Propane tanks shall be secured to the barbecue
 - f) Propane cylinders shall be stored in an upright position
 - g) Barbecues must be kept a sufficient distance from all combustible materials

PART 4
FIREWORKS

1. Sale and display of low hazard fireworks

No person shall sell low hazard recreational fireworks within the City to any person under the age of 18 years.

Low hazard recreational fireworks shall not be displayed for sale within the City unless:

- the fireworks are displayed in a display case, package or other suitable receptacle that is not accessible to the public the display case, package or other suitable receptacle in which the fireworks are displayed is not in close proximity to flammable material and not in a location where the fireworks will be exposed to the rays of the sun or excess heat
- the fireworks are displayed in lots not exceeding 25 kilograms each gross weight the fireworks are dispensed from the display case, package or other suitable receptacle only by the vendor or the vendor's employees.

2. Sale and display of high hazard fireworks

High hazard fireworks shall not be displayed for sale or sold in the City.

3. Setting off fireworks

No person shall set off fireworks within the City unless they have applied and received approval for setting off of fireworks by a fireworks discharge permit only.

4. Fireworks displays

A fireworks display shall be held only:

- in public places approved by the Fire Chief and the Chief of Police;
- at a safe distance from all combustible materials and all highways, railroads, overhead wires, buildings and other structures; and
- under the supervision of a responsible person 18 years of age or older.
- No person shall hold a fireworks display unless the person responsible for the fireworks display has obtained a permit from the Fire Chief.
- A permit shall be applied for using forms provided at least 7 days before the intended date of the fireworks display.
- The Fire Chief may refuse to issue a permit for a fireworks display if, in either of their opinion the application for the permit is unsatisfactory, the person or Fireworks Supervisor that is conducting the fireworks, display does not have

adequate insurance coverage, the fireworks display or its proposed location constitutes a fire hazard to any neighbouring properties, the fireworks display or its proposed location will be inadequately equipped with fire safety or suppression equipment, or the fireworks display or its proposed location constitutes a danger to public health or safety.

- A fireworks display shall only be held on the terms set out in the discharge permit.
- A fireworks display shall be conducted in a manner consistent with all the safety procedures listed in the most recent Display Fireworks Manual distributed by the Explosives Regulatory Division of Natural Resources Canada.
- This Bylaw is subject to the Explosives Act and the federal regulations. Where there is a conflict between this Bylaw and the Explosives Act or the federal regulations, the Explosives Act or the federal regulations will take precedence to the extent of the conflict.

PART 5
ENFORCEMENT, OFFENCES AND PENALTIES

1. An order made under this by-law shall be in writing and signed by the Authority Having Jurisdiction. 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.
2. Any order made under this by-law shall be served;
 - a) Personally upon the person to whom it is directed; or
 - b) By registered or regular mail; or
 - c) 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.
3. Any person who contravenes or disobeys, or refuses or neglects to obey:
 - a. Obstructs or hinders the Fire Chief or his designate under the authority of this bylaw; or
 - b. 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
 - c. Any provision of any by-law, Regulation or Order enacted or made by Council; or
 - d. Any Order made by this by-law; For which no other penalty is specifically provided is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$100.00 or more than \$1,000.00 for each day's neglect or failure to comply therewith and in default of payment of the fine, to imprisonment for a term not exceeding thirty (30) days.
 - e. Any person who hinders or obstructs the Authority Having Jurisdiction in the exercise of his duty is guilty of an offence and liable on summary conviction to a fine of not less than \$1000.00, and in default of payment of the fine, to imprisonment for a term not exceeding fourteen (14) days.

PART 7
ENACTMENT

This by-law shall come into full force and take effect upon the passage thereof.

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.

PASSED AND ENACTED by the Council of the City of Winkler duly assembled at Winkler, in Manitoba this _____ day of _____, 2015.

Read a First time this _____ day _____ 2015.

Read a Second time this _____ day _____ 2015.

Read a Third time this _____ day _____ 2015.

Mayor

City Manager