

**CONTINUING CONSOLIDATION
OPEN AIR FIRES BY-LAW NO. 6746**

AS AMENDED BY BY-LAW NO. 6768 and 7147.

BEING A BY-LAW of The City of Brandon to regulate open air fires in the City of Brandon.

WHEREAS subsection 231(1)(a) of The Municipal Act authorizes a council to pass by-laws for the purposes respecting the safety, health, protection and wellbeing of people and the safety and protection of property;

AND WHEREAS its is deemed necessary and expedient to pass a by-law for the purpose of regulating open air fires and acceptable outdoor burning appliances;

NOW THEREFORE the Council of The City of Brandon in regular session assembled, enacts as follows:

1. This by-law may be cited as the “Open Air Fire By-law”.
2. All measurements found in this by-law shall be adhered to.
[AM.B/L 7147]

PART 1 - DEFINITIONS

3. In this by-law:
 - (a) “ACCEPTABLE FIRE PIT” means an outdoor receptacle that meets the following specifications:
 - (i) a minimum of 1.5 metres (5 feet) clearance, measured from the nearest fire pit edge, is maintained from buildings, property lines, or other combustible material;
 - (ii) the fire pit height does not exceed .5 metres (20 inches) when measured from the surrounding grade to the top of the pit opening;
 - (iii) the fire box shall not exceed 75 cm (30 inches) inside diameter;
[AM. B/L 7147]
 - (iv) the fire pit installation has enclosed sides made from bricks, concrete blocks, heavy gauge metal, or other non-combustible materials acceptable to the Fire Chief or designate;
 - (v) a spark arrestor mesh screen with openings no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible material) must be used at all times to cover the fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks; and
[AM. B/L 7147]
 - (vi) the fire pit shall not be used to burn prohibited debris.
 - (b) “ACCEPTABLE FIREPLACE, STOVE AND CHIMENEA” means an outdoor receptacle that meets the following specifications:
 - (i) a minimum of 1.5 metres (5 feet) clearance measured from the nearest fireplace edge shall be maintained from buildings, property lines, or other combustible material;

- (ii) is constructed of materials that are heat and flame resistant;
 - (iii) shall not be used on wooden decks unless located 1.5 metres (5 feet) from any property line, building, or other combustible structure and placed on a non-combustible surface extending 40cm (16 inches) from the widest part of the appliance.
[EN. B/L 7147]
 - (iv) is equipped with a secured chimney;
[AM. B/L 7147]
 - (v) the chimney is equipped with a regulation screen no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible materials) and is designed to contain and reduce the hazards of airborne sparks;
 - (vi) the base of the fire burning area is not less than 30 cm (12 inches) above the surrounding grade;
 - (vii) the base of the fire burning appliance shall be placed upon a non-combustible surface such as earth, concrete, metal or other non-combustible materials acceptable to the Fire Chief or his designate;
 - (viii) the fire chamber does not exceed 75 cm (30 inches) in width, does not exceed 60 cm (24 inches) in height, and is at least 40 cm (16 inches), but no more than 60 cm (24 inches) in depth;
[AM. B/L 7147]
 - (ix) outdoor solid fuel appliances shall be located on a flat, level and non-combustible base clear of overhangs such as roofs, tree branches and utility wires; and
 - (x) the fireplace or stove shall not be used to burn prohibited debris.
- (c) “APPROVED OUTDOOR BURNING APPLIANCE PERMIT” means the permit to burn in an approved outdoor appliance issued by the Brandon Fire and Emergency Services in accordance with this by-law hereinafter referred to as the “Approved Outdoor Appliance Permit”.
- (d) “BRANDON FIRE AND EMERGENCY SERVICES” means the Brandon Fire and Emergency Services as established and organized by the City pursuant to the provisions of By-law No. 6063.
- (e) “BURNABLE DEBRIS” means materials other than Prohibited Debris burned in accordance with the Open Air Fire Permit and all applicable statutes and by-laws, including but not limited to materials such as: charcoal, cut or seasoned wood.
- (f) “CITY” means the City of Brandon.
- (g) “FIRE CHIEF” means the Manager of the Brandon Fire and Emergency Services Department for the City of Brandon who performs the duties and responsibilities of a General Manager/Fire Chief, or his designate.
- (g.1) “INSPECTOR” means any Brandon Fire Department Officer, Brandon Police Services Officer, or By-law Enforcement Officer, associated with the Brandon Fire Department, or the Brandon Police Service, or any other person authorized and entrusted to enforce this by-law.
[A.M. 6768]

- (h) **“OPEN AIR FIRE PERMIT”** means the permit to burn issued by the Brandon Fire and Emergency Services in accordance with this by-law, hereinafter referred to as the **“Open Air Fire Permit”**.
- (i) **“PORTABLE BARBECUING APPLIANCE”** means any appliance sold or constructed for the purpose of cooking food outdoors, normally fuelled by liquefied petroleum gas (LPG), natural gas, compressed briquettes, or charcoal.
- (j) **“PROHIBITED DEBRIS”** means any inflammable waste that when burned, may result in the release to the atmosphere dense smoke, offensive odours or toxic substances as defined in any applicable statutes and by-laws including but not limited to non-wooden material, tires, used oil and household refuse.

PART 2 – OPEN AIR FIRES PROHIBITED

- 4. It shall be an offence for any person to light, ignite, start, or allow or cause to be lighted, ignited or started an open air fire without first having obtained the applicable permit to do so from the Fire Chief or designate.
- 5. No person shall permit an open air fire or any other fire upon land owned, occupied, or under his or her control within the City, unless an applicable permit has been obtained and the provisions outlined on the permit are complied with.
- 6. Notwithstanding Sections 4 and 5, a permit shall not be required under this by-law to conduct:
 - (a) the cooking of food using a Portable Barbecuing Appliance;
 - (b) burning in fireplaces in or attached to dwellings as provided by legislation;
 - (c) burning in City owned campgrounds and parks where fireplaces, stoves and fire pits are provided by or approved by the City;
 - (d) burning in an incinerator for which a permit to construct and license to operate has been issued pursuant to the applicable legislation;
 - (e) burning by the Brandon Fire and Emergency Services for the purpose of training its members.
- 7. A person to whom a permit has been so issued shall not leave the permitted fire unattended at any time while it is burning or smoldering and shall ensure that sufficient appliances and equipment to prevent the fire from getting beyond control, or causing damage or becoming dangerous are the at the fire site.

PART 3 – PROCEDURE TO OBTAIN PERMIT

- 8. Any person wishing to obtain an Open Air Fire Permit shall make application to the Fire Chief or designate in the form attached as Schedule “A” hereto during the normal business hours of the Brandon Fire and Emergency Services.
- 9. Each application for an Open Air Fire Permit shall contain the following information:
 - (a) the name and address of the applicant, and the name and address of the owner of the land on which the applicant proposes to set a fire;
 - (b) the legal or municipal description of the land on which the applicant purposes to set a fire;

- (c) the type and description of material which the applicant proposes to burn;
 - (d) the period of time for which the permit is required;
 - (e) the precautions that will be taken by the applicant to ensure that the proposed fire remains under his or her control;
 - (f) the signature of the applicant; and
 - (g) the written consent to the proposed fire by the owner of the land (if different than the applicant).
10. Permits issued pursuant to this by-law are valid for such period of time as shall be determined and set by the Fire Chief or designate and the permit shall have endorsed thereon the period of time for which the said permit is valid.
11. The Fire Chief or designate may extend the period of time that an Open Air Fire Permit is valid, provided the said permit is not expired.
12. Each application for an Approved Outdoor Burning Appliance Permit shall be made to the Fire Chief or designate in the forms attached as Schedules "B" and "C" hereto during the normal business hours of the Brandon Fire and Emergency Services and shall contain the following information:
- (a) the name and address of the applicant, and the name and address of the owner of the land on which the applicant proposes to set up and approved outdoor burning appliance;
 - (b) the legal description of the land on which the applicant proposes to set up an outdoor burning appliance;
 - (c) the signature of the applicant; and
 - (d) the written consent to the proposed outdoor burning appliance by the owner of the land (if different from the applicant).
13. If an existing fire pit does not comply with the provisions set out in this by-law for an Acceptable Fire Pit or if an existing outdoor fireplace does not comply with the provisions for an Acceptable Fireplace, the Fire Chief or designate may issue a permit for continued use of the fire pit or fireplace if satisfied that the non-conforming fire pit or fireplace meets appropriate safety standards and the deficiencies do not create a risk of fire. If the existing fire pit or fireplace is considered unsafe or unacceptable, use of same must be stopped immediately and is prohibited.
14. Upon receipt of an application for a permit, the Fire Chief or designate shall consider the permit application, and may, pursuant to the provisions of this by-law and the Manitoba Fire Code:
- (a) refuse to grant a permit;
 - (b) grant a permit with or without terms and conditions as he/she deems appropriate; or
 - (c) determine that a permit is not required.

- 14.1 The permit is only approved in the location identified on the application. In the event the appliance is move, the permit is no longer valid.
[EN. B/L 7147]
15. A permit shall not be transferable.

PART 4 – REGULATIONS

DIVISION I: GENERAL

16. Material which may be burned in an open fire as permitted under this by-law shall consist only of charcoal or cut, seasoned wood. The burning of the following material is prohibited:
- (a) rubbish;
 - (b) garden refuse, lawn clippings or leaves;
 - (c) manure;
 - (d) livestock or animal carcasses;
 - (e) any material classified as a dangerous good, and any material which, when burned, will generate black smoke or an offensive odour including insulation from electrical wiring or equipment, asphalt, roofing materials, hydrocarbons, plastics, rubber materials, creosote wood, or any similar material.
17. Fires shall be supervised at all times so as to prevent their spread.
[AM. B/L 7147].
18. Fires shall not be set in windy conditions conducive to creating a running fire or a nuisance to another person.
19. If smoke from a fire causes an unreasonable interference with the use and enjoyment of another person's property, the fire shall be extinguished immediately.
20. The person to whom an Open Air Fire Permit is issued shall be responsible for any and all damages as a result of burning.
21. Any fire permitted by this by-law shall be contained to a reasonable size so that the fire, or any embers, sparks or smoke emanating there from does not endanger any person or property or cause any objectionable effect on nearby property.
22. The Fire Chief or his designate may direct that a fire in a fire pit be extinguished, or may extinguish a fire that in his opinion is a nuisance or a threat to public safety.

DIVISION II: OUTDOOR BURNING APPLIANCES

23. The site of the burning and the receptacle shall be inspected and an Open Air Fire Permit and/or Approved Outdoor Appliance Permit obtained from the Brandon Fire and Emergency Services.
24. Acceptable fire pit fires shall not be set unless the following measures have been taken to limit their spread:
- (a) be limited to a diameter of 75 cm (30 inches) and be ringed with brick, stone, concrete or heavy gauge metal;
[AM. B/L 7147]

- (b) the brick, stone, concrete or heavy gauge metal shall be separated from grass and any other vegetation by a distance of at least 16 cm (6 inches) by means of clean earth, sand, gravel or other non-combustible medium;
[AM. B/L 7147]
 - (c) must be covered at all times with a heavy gauge metal screen with openings not exceeding 1.25 cm (.5 inches); and
[AM. B/L 7147]
 - (d) the fire shall be located on private property, a distance of at least 1.5 metres (5 feet) from any property line, building or other combustible structure.
- 25. Any chimenea or portable fireplace/stove used as an outdoor burning appliance must be an acceptable manufactured burning appliance and subject to the following provisions:
 - (a) shall not be used on apartment balconies;
 - (b) shall not be used indoors;
 - (c) may be used on a non-combustible surface such as earth, concrete, stone, etc.;
 - (d) shall be separated from grass and other vegetation by a distance of at least 16 cm (6 inches) by means of earth, sand, gravel or other non-combustible medium;
[AM. B/L 7147]
 - (e) shall be located on private property a distance of at least 1.5 metres (5 feet) from any property line, building or other combustible structure; and
 - (f) shall have a spark arrestor mesh screen with openings no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible material) is used to cover the fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks.
- 26. Every person who uses a barbecue or similar device shall:
 - (a) use the barbecue in a reasonable and safe manner;
 - (b) keep the barbecue, when lit, the manufacturer's recommended distance from all combustible materials or a minimum of 1.5 metres (5 feet);
 - (c) ensure that a portable grill or barbecue, when used on or near any building containing two (2) or more dwelling units, shall be located on a firm base and be firmly anchored not less than 1.5 metres (5 feet) from any combustible structure;
 - (d) refrain from leaving the barbecue unattended when lit;
 - (e) keep the barbecue in a reasonable state of repair;
 - (f) comply with all federal and provincial regulations governing the use and storage of propane cylinders. Propane cylinders must not be repaired, stored or contained within a building;
 - (g) ensure propane cylinders are shut off at the tank valve when not in use;
 - (h) ensure propane cylinders are connected and secured to the barbecue; and
 - (i) ensure propane cylinders are kept in an upright position at all times, including when the cylinders are in transit, in service, or in storage.

27. When solid fuel appliances are used, provisions for the storage of ashes or hot coals is limited to approved receptacles.
28. In addition to subsections 26 and 27, the following provisions apply, for the use of a barbecue or similar device on a balcony:
 - (a) solid fuel barbecues or other similar cooking device shall not be used; and
 - (b) propane cylinders must not exceed the 20 pound size.
29. Except for approved auxiliary-fuelled incinerators, no incinerator shall be constructed or installed within the corporate limits of the City of Brandon.
30. Burning barrels or other similar device for the burning of any household or yard refuse are prohibited.

PART 5 – OFFENSES, PENALTIES, ENFORCEMENT AND ENACTMENT

31. The Fire Chief or designate may terminate, suspend, or cancel a permit issued upon contravention of any provision of this by-law or the Manitoba Fire Code, or any terms and conditions found on the permit.
32. Any person who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.
33. Any person who contravenes, or does not comply, or improperly complies, or only partly complies with any provisions of this by-law commits an offence. Everyone who commits an offence is liable, on summary conviction to a fine not exceeding One Thousand Dollars (\$1,000), or at the discretion of the Inspector, a penalty in accordance with the City's Compliance By-law.
34. Where the contravention, refusal, neglect, omission or failure continues for more than one day, the person/property owner is liable for a separate offence for each day that it continues.
35. Where a person:
 - (a) fails to obtain a permit as required under this by-law; or
 - (b) obtains a permit as provided for in this by-law but fails to follow the provisions of the by-law and those conditions outlined on the permit; or
 - (c) originally did not require a permit, but whose actions brought an open air fire under the requirement for a permit as defined herein,and a fire beyond the control of a person or other emergency results, then such person shall be liable to pay all costs of all emergency response service incurred by the Brandon Fire and Emergency Services and the City shall be able to recover from such person all such costs as a debt owing to the municipality.
36. The provisions of this by-law shall be enforced by Inspectors.

37. This by-law shall come into full force and effect on the date following its passage.

DONE AND PASSED by the Council of the City of Brandon in regular session assembled, this 8th day of September A.D. 2003.

“D. K. Burgess”

“C. R. Arvisais”

Read a first time this	25 th day of	August	A.D. 2003.
Read a second time this	8 th day of	September	A.D. 2003.
Read a third time this	8 th day of	September	A.D. 2003.

I, Heather Coreen Ewasiuk, Clerk of the City of Brandon DO HEREBY CERTIFY the above to be a true and correct copy of By-law No. 6746, as amended by By-law Nos. 6768 and 7147.

“H. Ewasiuk”
H. Ewasiuk, City Clerk

SCHEDULE "A"

BY-LAW NO. 6746

OPEN AIR FIRE PERMIT APPLICATION

BRANDON FIRE AND EMERGENCY SERVICES

I (We) _____ of _____

am (are) applying for a permit to

Permission will be granted provided the following conditions are strictly adhered to:

- 1) The *Brandon Fire Department must be contacted at 729-2400 PRIOR* to starting the fire and advise them that you have a burning permit, and then again after the burn is completed.
- 2) That the fire be supervised at all times (day or night).
- 3) That the direction of the smoke will not be a nuisance to the neighbours or hamper vehicle travel.
- 4) That the permit holder be fully responsible for any damage or injuries resulting from this fire.
- 5) This permit is valid only for the dates listed above. Any other burning voids this permit. (Any other conditions will be listed on a separate page.)

The location of the premises for this permit is known as:

It is hereby noted that failure to comply with the above requirements renders the applicant liable under the National Fire Code of Canada and/or the penalty clause of the City of Brandon by-laws pertaining thereto.

Date: _____

Applicant's Signature: _____

Inspected/Approved by: _____



**BY-LAW NO. 6746
SCHEDULE "B"
THE CITY OF BRANDON
Fire Prevention Division**

Phone: (204) 729-2400 Fax: (204) 729-8970 Email: fire@brandon.ca

APPROVED OUTDOOR BURNING APPLIANCE APPLICATION / PERMIT

Note:

1. Applicant must be the person supervising the Outdoor Burning Appliance.
2. Application approval is subject to the conditions listed on the accompanying page.

Name of Applicant: _____

Address of Outdoor Burning Appliance: _____ **Postal Code:** _____

Applicant E-mail: _____ **Applicant Telephone:** _____

Name of Property Owner (if different from above): _____

Type of Outdoor Burning Appliance (circle)

Fire Pit Portable Fire pit Outdoor Fireplace Stationary Built-in BBQ Stove

Type of Construction (circle)

Brick Masonry Heavy Gauge Metal

Utility Companies consulted for Line Locations (circle)

Natural Gas Hydro Telephone Cable TV

Comments:

[] Detailed Site Plan Attached [] Letter of Permission Attached

I, the above applicant, have read and understand the Approved Outdoor Burning Appliance Requirements in the attached pages and warrant my Outdoor Burning Appliance is in compliance with the requirements. I further accept any and all responsibilities and liability for damages that may occur from the use of my Outdoor Burning Appliance.

Signature of Applicant: _____ **Date:** _____

Permit Approval

The applicant has permission to use an Outdoor Burning Appliance at the above noted address.

Inspected/Approved by: _____ **Date:** _____



**BY-LAW NO. 6746
SCHEDULE "B" cont'd
THE CITY OF BRANDON
Fire Prevention Division**

Phone: (204) 729-2400 Fax: (204) 729-8970 Email: fire@brandon.ca

Approved Outdoor Burning Appliance Permit Requirements

Only Permit Application forms that are current dated (see date on bottom of forms) will be accepted. An Approved Outdoor Burning Appliance Permit application requires; and No Permit may be issued without the following items:

- 1. Completion of "Schedule B and C" of the City of Brandon Open Air Fire By-law 6746 "Approved Outdoor Burning Appliance Permit Application".**
- 2. Written permission to use an Approved Outdoor Burning Appliance from the property owner or agent of the land (if different than the applicant).**
- 3. An inspection of the proposed site / appliance will be required prior to issuing the permit.**

"ACCEPTABLE FIRE PIT" means an outdoor receptacle that meets the following specifications:

- (i) a minimum of 1.5 metres (5 feet) clearance, measured from the nearest fire pit edge, is maintained from buildings, property lines, or other combustible material;
- (ii) the fire pit height does not exceed 50 cm (20 inches) when measured from the surrounding grade to the top of the pit opening;
- (iii) Fire box shall not exceed 75 cm (30") inside diameter;
- (iv) the fire pit installation has enclosed sides made from bricks, concrete blocks, heavy gauge metal, or other non-combustible materials acceptable to the Fire Chief or designate;
- (v) a spark arrestor mesh screen with openings no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible material) must be used at all times to cover the fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks; and
- (vi) the fire pit shall not be used to burn prohibited debris.

"ACCEPTABLE FIREPLACE, STOVE AND CHIMENEA" means an outdoor receptacle that meets the following specifications:

- (i) a minimum of 1.5 metres (5 feet) clearance measured from the nearest fireplace edge is maintained from buildings, property lines, or other combustible material;
- (ii) is constructed of materials that are heat and flame resistant;
- (iii) shall not be used on wooden decks unless located 1.5 metres (5 feet) from any property line, building or other combustible structure and placed on a non-combustible surface extending 40 cm (16 inches) from the widest part of the appliance;
- (iv) is equipped with a secured chimney
- (v) the chimney is equipped with a regulation screen no larger than 1.25 cm (.5 inches) and constructed of expanded metal (or equivalent non-combustible materials) and is designed to contain and reduce the hazards of airborne sparks;
- (vi) the base of the fire burning area is not less than .3 metres (12 inches) above the surrounding grade;

- (vii) the base of the fire burning appliance shall be placed upon a non-combustible surface such as earth, concrete, metal or other non-combustible materials acceptable to the Fire Chief or his designate;
- (viii) the fire chamber does not exceed 75 cm (30 inches) in width, does not exceed 60 cm (24 inches) in height and is at least 40 cm (16 inches) but no more than 60 cm (24 inches) in depth;
- (ix) outdoor solid fuel appliances shall be located on a flat, level and non-combustible base clear of overhangs such as roofs, tree branches and utility wires; and
- (x) the fireplace or stove shall not be used to burn prohibited debris.

Inspection and Permit Issuing

1. Permit Applications can be obtained from Brandon Fire & Emergency Services

- No. 1 or No. 2 Fire Halls, seven (7) days a week between the hours of 8:00 a.m. and 6:00 p.m.
- By accessing the website www.brandonfire.ca "Fire Permits and Forms" section. Access and print the PDF document entitled:
"Outdoor Burning Appliance Permit Application"

2. Permit Applications must be completed in full and can be delivered to Brandon Fire & Emergency Services in person, by Canada Post mail, e-mail, or fax. The fire pit must be inspected and approved by BFES before a permit is deemed valid. If not approved within thirty days, a new application must be submitted.

Brandon Fire & Emergency Services	
No. 1 Fire Hall	No. 2 Fire Hall
120 – 19 th Street North	1301 - 13 th Street
Brandon, MB R7B 3X6	Brandon, MB (delivery in person only)
Fax (204) 729-8970	
Email: fire@brandon.ca	

3. An inspection of the proposed site / appliance will be required prior to use of the appliance and issuance of the permit.

Note: The City of Brandon Fire & Emergency Services reserves the right to regulate and control the design, construction materials and safety precautions of all fire pits, fireplaces or stoves within the corporate limits of the City of Brandon and any land under the care of the City of Brandon.

Please ensure that the following steps have been taken before you contact BFES to inspect your fire pit:

1. The fire pit has been purchased and is set up in the desired location.
2. Ensure that all of the criteria has been met regarding the construction and placement of the fire pit.
3. If you are renting the property, please have a letter of permission from the property owner.
4. Ensure that any necessary surveys have been completed.
5. Keep a copy of the fire pit permit for yourself, as well as one for BFES.
A copy of the permit must be available at all times and upon request.

Failure to comply will result in fines according to the Open Air Fire Bylaw.

If Fire Pits are used without the necessary permit, offenders will be ticketed without warning. The fee for failing to comply with the bylaw is \$200 as per the Open Air Fire Bylaw No. 6746.



OPEN AIR FIRE BY-LAW

An open fire pit is a great way to enjoy the outdoors year-round, but it is important to ensure that yours is safe and legal. The City of Brandon has an Open Air Fire By-Law which governs the construction and use of fire pits. Here are some details outlined in the By-Law:

