

**MUNICIPALITY OF KILLARNEY-TURTLE MOUNTAIN  
BY-LAW NO. 8-2015**

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**Being a By-Law of the Municipality of Killarney – Turtle Mountain to provide for fire-fighting, fire prevention, the related regulation of fire and other hazards, the adoption of the Code, and for establishing, continuing and operating an emergency service for the Municipality, and to be known as the “Fire Prevention and Emergency Services By-Law”.**  
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**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 232(2) of The Municipal Act States in part as follows:

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division...

- (d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality...

**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;

**NOW THEREFORE** be it enacted as a By-Law of the Municipality of Killarney-Turtle Mountain as follows:

**Part I: INTERPRETATION AND DEFINITIONS**

**Interpretation**

- 1. It is the purpose of this by-law to establish the standards for fire prevention; firefighting 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.

**Definitions**

- 2. (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” 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.

- (3) "BURNING PERMIT" means permit issued from Municipality of Killarney – Turtle Mountain regulating outdoor and open air burning in burn permit area. (Copy attached Schedule "C")
- (4) "CODE" means the Manitoba Fire Code being Regulation No. 155/11 of The Fire Preventions Act, RSM c.F80, C.S.S.M. c.F80, as amended from time to time, or any subsequent Manitoba Fire Code which may be enacted.
- (5) "COUNCIL" means the council of the Municipality.
- (6) "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 fire-fighting and the preservation of life and property, and preventing and mitigating other potential risks to life and property as defined by Council.
- (7) "FALSE ALARM" in respect to a fire alarm, means the activation of an alarm system resulting in the direct or indirect notification of the Fire Department to attend the address of the alarm system, where there is, in fact no emergency situation at that address. "False Alarm" does not apply to local alarms, when, unknown to the residents or owner of a property, and the fire alarm the premises and the fire alarm system is designed to alert only the occupants of the dwelling unit in which it is installed.
- (8) "FIRE CHIEF" means the Fire Chief for the Municipality and any one acting or authorized to act on his behalf.
- (9) "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.
- (10) "FIRE FIGHTER" means any member, including volunteers, of the Fire Department while their services are actually engaged by the Municipality for the purpose of providing Emergency Services or otherwise enforcing the provisions of this by-law.
- (11) "FIRE INSPECTOR" means the person or agency employed by or acting for the Municipality and partially or wholly responsible for fire safety within the Municipality.
- (12) "LOCAL ALARMS" The local alarm is a configuration using an audible sound device (a bell or siren) and sometimes a visual one (a strobe light) to report a fire. A local alarm does not automatically notify the fire department, Alarm Company or 911.
- (13) "MUNICIPALITY" means Municipality of Killarney – Turtle Mountain or the area contained within the boundaries thereof.
- (14) "OUTDOOR FIRE" means a fire that is started outdoors including crop residue burning, land clearing and grass, but does not include a fire started in, and remains contained within, a fire pit or solid fuel burning appliance.

- (15) "WILDFIRE SEASON" means the period in each year commencing on April 1<sup>st</sup> and ending on November 15<sup>th</sup> or any other period of time that may be designated by the Municipality.

## PART II: ADMINISTRATION

### Adoption of Fire Code

3. The Municipality hereby adopts the Code as part of this by-law, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, and is hereby incorporated as if fully set out at length herein. Any reference to this by-law shall be construed as a reference to the whole by-law, including the Code.

### Recovery of Costs

4. 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 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.

## PART III: CREATION OF FIRE DEPARTMENT

### Creation and Membership

5. There is hereby created a Fire Department for the Municipality, to be comprised of a Fire Chief and such other Fire Department personnel as from time to time may be deemed necessary by the Fire Chief, however, the Fire Department shall not be comprised of less than fifteen (15) personnel at any one time. No change in the complement of the Fire Department shall be made without approval of the Council, who may authorize an increase or decrease or vary the above stated complement upon recommendation of the Fire Chief.

### Responsibility of Fire Chief

6. It shall be the responsibility of the Fire Chief to administer and enforce the provisions of this by-law, subject always to such direction as may from time to time be given by the Council.

## PART IV: EMERGENCY SERVICES

### Emergency Services

7. The mandate of the Fire Department is to provide the specific Emergency Services as described in Schedule "A" to this by-law.

### Agreement for Emergency Services

8. 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.

### Response outside Municipality

9. 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 Municipality or property situated outside the Municipality that is owned or occupied by the Municipality; 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 Municipality 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 therefore; 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.

#### PART V: GENERAL REQUIREMENTS

##### **Interference an Offence**

- 10. 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.

##### **Tampering an Offence**

- 11. 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.

##### **Requiring Additional Assistance**

- 12. 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 Service and any such person, while acting under the direction of the Fire Chief, shall be deemed a volunteer of the Municipality.

##### **Commandeering Equipment**

- 13. 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.

#### PART VI: FIRE PREVENTION STANDARDS

##### **Access for Inspection**

- 14. 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.

##### **Prevention of Fire Spread**

- 15. 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 or 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.

#### **Storage of Containers**

16. 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 by the Authority Having Jurisdiction to such location as authorized by the Authority Having Jurisdiction.

#### **Portable Fire Extinguishers**

17. 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.

#### **Chimney Pipes**

18. 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 therefore shall be the responsibility of the owner.

#### **Property Maintenance**

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

#### **Fire Alarm Systems**

20. (a) Every fire alarm system shall be maintained at all times in operating condition and tested by a qualified person in accordance with the requirements of the Code;
- (b) 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 the 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.
- (c) In the event of more than two false alarm calls within twelve months the owner of the property on which the premises are located shall pay to the Municipality of Killarney – Turtle Mountain the fees as set out in Schedule “B” attached to and forming part of this by-law. Notification of the incident shall be provided to the property owner and kept on file at the Municipal Office on the form as provided in Schedule “B”.

## Flammable and/or Combustible Liquid Storage and Storage of Hazardous Materials

21. 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.

## PART VII: BURNING PERMIT REQUIREMENTS

### Burning Permit Requirements

22. (a) That no person shall start an Outdoor Fire within the boundaries of the Municipality of Killarney – Turtle Mountain, during the Wildfire Season without first obtaining a Burning Permit from the Municipality of Killarney – Turtle Mountain or one of its designated Officers.
- (b) All burning within the municipality shall be subject to the conditions and provisions of **The Wildfires Act**, and including but not limited to, the following conditions, and those conditions specifically set out within the **Burning Permit**.
  1. 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.
  2. 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.
  3. 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.
  4. 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).
  5. 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.
  6. 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.
  7. All fire must be extinguished when unsupervised.

### Responsibilities of Permit Holder

23. 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.

### Exemption from Burning Permit

24. 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 the By-law, exempt from a Burning Permit, but must adhere to the following conditions:
  - 1) 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.
  - 2) 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.

- 3) 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.
- 4) A minimum clearance of 5 metres, measured from the nearest fire pit edge is maintained from any structure or any combustibles (ie. Fences, trees, hydro poles) and property lines.
- 5) Solid fuel appliances shall be installed to manufacturer's specifications with any required distance to a structure or combustible of at least 5 metres.

### **Burning Ban**

25. The municipality may, by resolution, at their discretion, ban **ALL BURNING** (including an **Outdoor Fire** and fires contained within fire pits and solid fuel burning appliances) in the Municipality of Killarney – Turtle Mountain 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 VIII: PENALTY PROVISION**

#### **Penalty**

26. (a) 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.
- (b) Any order made under this by-law shall be served:
- (1) Personally upon the person to whom it is directed; or
  - (2) By registered or regular mail; or
  - (3) 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.
- (c) Any person who contravenes or disobeys, or refuses or neglects to obey:
- (1) 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
  - (2) any provision of any by-law, Regulation or Order enacted or made by Council; or
  - (3) 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 \$1000.00 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 fourteen (14) days.

### **PART VIII: REPEAL AND ENACTMENT**

#### **Repeal**

- 26.(a) By-Laws No. 3-2003 and 5-2012 together with amending by-laws, be and the same are hereby repealed.
- (b) The repeal of the by-laws(s) in the last preceding subsection mentioned shall not revive any by-law or any provision of any by-law repealed by (it/them), nor shall the said repeal prevent the effect of any saving clause in the said by-law or the application of the said by-law or any other by-law or provision of law formerly in force to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply.

(c) The repeal of the said by-law(s) should not affect:

- (1) any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same had, done, completed or pending at the time of such repeal; or
- (2) any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal; or
- (3) any act, deed, right, title, interest, grant, assurance, registry, rule, regulation, contract, lien, charge, matter, or thing had, done, made, acquired, established, or existing at the time of such repeal; or
- (4) any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal; or
- (5) any bond, note debenture, debt, or other obligation made, executed, or entered into by the City at the time of such repeal.

(d) The repeal of the said by-law(s) shall also not defeat, disturb, invalidate, or prejudicially affect any matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

#### **Enactment**

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

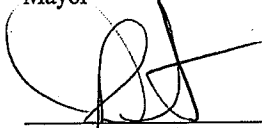
#### **Validity of By-Law**

28. 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** by the Council of the Municipality of Killarney – Turtle Mountain in regular session assembled this 16<sup>th</sup> day of December, A.D. 2015.

Municipality of Killarney – Turtle Mountain

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Chief Administrative Officer

Read a first time this 2<sup>nd</sup> day of December, A.D., 2015

Read a second time this 16<sup>th</sup> day of December, A.D., 2015

Read a third time this 16<sup>th</sup> day of December, A.D., 2015



## Schedule "A" – Emergency Services Provided by Fire Department

The Fire Department will provide the following Emergency Services:

- (a) Fire prevention and fire extinguishing, which includes structural fire fighting for rescue, fire control, and property conservation;
- (b) Investigation of the causes of fire and origin determination;
- (c) Preservation of life and property and protection of persons and property from injury or destruction by fire;
- (d) rescue, ambulance, and emergency medical services;
- (e) Salvage operation;
- (f) The ability to enter into agreements with other municipalities or persons for the joint use, control, and management of fire extinguishing apparatus and equipment;
- (g) Purchase and operation of apparatus and equipment for extinguishing fires or preserving life and property;
- (h) Water rescue;
- (i) Rope rescue;
- (j) Low angle rescue;
- (k) Hazardous material responses;
- (l) Vehicle extrication;
- (m) Farm accident rescue;
- (n) Ground search and rescue;
- (o) Urban search and rescue;
- (p) Aircraft rescue and firefighting;
- (q) Trench rescue;
- (r) Biological and chemical responses;
- (s) Fire prevention inspections;
- (t) Pre-fire planning;
- (u) Public safety education;
- (v) Precautionary standby;
- (w) Extinguishing and prevention of urban interface fires;
- (x) Flood response;
- (y) Response to any request that the Fire Department deems an emergency, including but not limited to, CO alarms, animals in peril and gas odors.

[DRAFT NOTE: The items listed in this Schedule will be dependent upon the particular services offered by the Municipality's Fire Department.]

**Schedule "B"**

**False Alarm Fees – Fire Alarm**

Third and subsequent alarms within the previous 12 months - \$1,000.00

**Notice of Excessive False Alarm Occurrence**

To:

Registered Owner, Owner Occupier (Corporate Name)

Address:

An excessive false alarm as defined by By-Law No. 8 – 2015, occurred at the address noted above on the time and date set out in this notice. This is the (#) false alarm at this address during this year.

You are liable to pay the amount of \$1,000.00 in accordance with this Schedule "B" of By-law No. 8-2015. If you do not pay the amount of fee set out in this notice, further collection action may be taken.

Property Tax Roll No.:

Date of Occurrence:

Time of Occurrence:

R.C.M.P. File Number

File Department File Number:

Date of Notice:

Schedule "C"

MUNICIPALITY OF KILLARNEY – TURTLE MOUNTAIN  
PERMIT TO BURN

AUTHORITY IS HEREBY GRANTED TO: \_\_\_\_\_

PHONE #: HOME \_\_\_\_\_ CELL \_\_\_\_\_

OWNER/TENANT OF: (PROPERTY DESC.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

in the Municipality of Killarney-Turtle Mountain to set fire and burn Grass \_\_\_ Scrub \_\_\_  
Stubble \_\_\_ Other (desc.) \_\_\_\_\_ on the above mentioned  
property between the \_\_\_ day of \_\_\_\_\_, (Year) \_\_\_\_\_ and the \_\_\_ day of  
\_\_\_\_\_, (Year) \_\_\_\_\_ subject to the following conditions and the provisions of the  
Fire Prevention and Emergency Response Act & Manitoba Burning of Crop Residue  
Regulations:

1. To keep fire under control at all times.
2. To bear responsibility for all property damage which may result.
3. To fireguard the area as required under the terms of the "Fires Prevention and  
Emergency Response Act.
4. No fire to be set and left unattended.
5. No fire to be set when fire conditions are extreme and hazardous.
6. Form must be kept with you while burning.

Issued at the RM of Killarney-Turtle Mountain: Date \_\_\_\_\_, \_\_\_\_\_ (Year)

Signed \_\_\_\_\_  
Municipality Designated Officer

Declaration of Permittee: I understand the conditions under which this permit is issued  
and agree to abide thereby.

Signed \_\_\_\_\_