

PUBLISHED BY AUTHORITY

Pursuant to the authority conferred by the *City of Mount Pearl Act*, RSNL 1990, Chapter C-16, Section 278, the following regulations have been adopted by the City Council of the City of Mount Pearl on the 23rd day of January, A.D. 2018.

Notice of Motion to adopt amendments to the Open Air Burning Regulations was given at the City's regular Public Council meeting held on the 9th day of January, A.D. 2018.



Dave Aker, Mayor



Steve Kent, Chief Administrative Officer

OPEN AIR BURNING REGULATIONS

1. Title

These regulations shall be cited as "The City of Mount Pearl Open Air Burning Regulations", hereinafter referred to as these "Regulations".

2. Interpretation

In these regulations unless the context otherwise requires:

- a) "Act" means the *City of Mount Pearl Act*, RSNL, 1990, Chapter C-16 and amendments thereto.
- b) "Chief Administrative Officer" means the Chief Administrative Officer of the City of Mount Pearl.
- c) "City" means the City of Mount Pearl as defined in the Act.
- d) "Combustible" means any highly flammable material or gases that can be easily ignited with high heat or open flame.
- e) "Council" means the City Council of the City of Mount Pearl.
- f) "Grate" means a metal rack supported on a non-combustible enclosure.
- g) "Municipal Authority" means the Mount Pearl City Council constituted or continued under the Act.
- h) "Nuisance" means any obnoxious substance, smoke or other unsanitary matter that has an unpleasant affect on the senses or affects an individual's health and well-being.

- i) "No Burn Zone" means any area designated within the City of Mount Pearl, where the City, the Province of Newfoundland and Labrador or the St. John's Regional Fire Department does not allow any type of outdoor fire.
- j) "Officer" means a member of the Royal Newfoundland Constabulary, a member of the Royal Canadian Mounted Police Force stationed in the Province of Newfoundland and Labrador, or a Municipal Enforcement Officer or anyone authorized by the City of Mount Pearl to enforce these regulations.
- k) "Open Air" means not within a structure. Structure is defined as meaning any self-contained, closed in building.
- l) "Open Air Fire" means any type of fire that is not contained within an Outdoor Wood Burning Appliance.
- m) "Outdoor Wood Burning Appliance" means a device designed for the burning of wood. This does not include external wood furnaces.
- n) "Owner" means the owner of the property upon which a fire is burning.
- o) "Permit" means a permit granted by the Chief Administrative Officer permitting the lighting of an Open Air Fire.
- p) "Person in Charge" means the person who is in charge of a fire, who is the owner of the property upon which fire is burning, or a person who has the owner's written consent to light a fire on the owner's property.
- q) "Suitable Equipment" means the tools or equipment capable of extinguishing an Open Air Fire, including but not limited to: brooms, rakes, back tanks, hoses and an adequate water supply, sand, Class A fire extinguisher, and shovel.

3. Application of Regulations

These Regulations shall apply to all areas of the City.

4. Outdoor Wood Burning Appliances

Outdoor Wood Burning Appliances may be used throughout the City with the following provisions:

- a) all manufacturer's installation instructions are followed;
- b) Outdoor Wood Burning Appliances are not placed or installed on wooden decks or any other combustible surface, unless such decks or surfaces are protected with a fire resistant material (e.g. concrete, steel or asbestos);
- c) Outdoor Wood Burning Appliances shall not be placed or installed within 3.0 metres of any combustible material;
- d) only one Outdoor Wood Burning Appliance may be used on a residential property at any time;

- e) all Outdoor Wood Burning Appliances intended for use within the City shall be of sufficient construction so as to withstand the effects of extreme heat, be capable of preventing the escape of embers and sparks, and equipped with a grate;
- f) only dry seasoned firewood may be used;
- g) no Outdoor Wood Burning Appliance shall become a nuisance to neighbouring residents;
- h) the Person in Charge on whose property is located an Outdoor Wood Burning Appliance, which does not conform to these Regulations, shall be subject to prosecution pursuant to these Regulations; and
- i) the Person in Charge is required to have the following fire suppression tools immediately available when Outdoor Wood Burning Appliances are in use:
 - i) water hose, sufficient water supply, sand or Class A fire extinguisher; and
 - ii) shovel.

5. Open Air Fires

Upon application to the Chief Administrative Officer for the City, Open Air Fires may be permitted. Factors that will be considered in granting permission to light an Open Air Fire will be:

- a) purpose;
- b) consent of the St. John's Regional Fire Department;
- c) liability insurance;
- d) designated Person in Charge of the fire;
- e) ability to extinguish fire including proximity of Suitable Equipment;
- f) size of proposed Open Air Fire;
- g) location of proposed Open Air Fire; and
- h) any other factor deemed by the Fire Chief of the St. John's Regional Fire Department as being relevant to the granting of a permit to light an Open Air Fire.

6. Prohibited Use

No fires either contained in an Outdoor Wood Burning Appliance or an Open Air Fire shall be permitted during such periods when the Department of Fisheries and Land Resources, the St. John's Regional Fire Department, or the City of Mount Pearl has imposed a fire ban.

7. Enforcement

Any Officer, upon receipt of a complaint who becomes aware of a breach of these Regulations is authorized to:

- a) order the immediate extinguishment of any fire contained within an Outdoor Wood Burning Appliance or an Open Air Fire;

- b) if the Person in Charge is in possession of a permit issued by the City authorizing the lighting of an Open Air Fire and, in the opinion of the Officer, the Person in Charge of the fire is not in compliance with the terms of their permit, the Officer may order the immediate extinguishing of the Open Air Fire;
- c) if an order given under Subsections 7(a) or 7(b) is not immediately complied with, the Officer is authorized to extinguish any fire contained within an Outdoor Wood Burning Appliance or Open Air Fire; and/or
- d) to issue a citation to the owner of the property and/or the Person In Charge where, in the opinion of the Officer, any Outdoor Wood Burning Appliance is creating a nuisance or any Open Air Fire has been lit without proper authority.

8. Penalty

Every person who is guilty of an offence under these Regulations or who acts in contravention of or fails to comply with any provision thereof, or neglects or refuses to do so, shall be liable:

- a) to penalties as stipulated under regulations made in accordance with Sections 280.1, 280.2, 280.3, and 280.4 of the *City of Mount Pearl Act*, RSNL 1990, C-16 and amendments thereto; or
- b) on summary conviction, to a fine in accordance with the *City of Mount Pearl Act*, RSNL 1990, C-16, Section 438.

9. Coming Into Effect

These Regulations shall come into effect on the 2nd day of February, A.D. 2018.

10. Publication

These Regulations were published in *The Pearl* on the 31st day of January, A.D. 2018, and were published in *The Newfoundland and Labrador Gazette* on the 2nd day of February, A.D. 2018.

11. Copy to Minister

A copy of these regulations was sent to the Minister of Municipal Affairs and Environment on the 26th day of January, A.D. 2018.

12. Repeal of Previous Regulations and Subsequent Amendments

All previous City of Mount Pearl Open Air Burning Regulations and subsequent amendments are repealed.