

**THE TOWN OF SMOKY LAKE
IN THE PROVINCE OF ALBERTA
BYLAW NO. 736-98**

Being a Bylaw of the Town of Smoky Lake in the Province of Alberta, for the purpose of providing for the establishment and operation of FIRE PROTECTION SERVICES.

AND WHEREAS the Council of the Town of Smoky Lake wishes to establish a fire service within the Municipality and to provide for efficient operation of such a fire service, all pursuant to the laws of the Province of Alberta.

AND WHEREAS the Council of the Town of Smoky Lake wishes to regulate the use and setting of fires;

NOW THEREFORE, the Council of the Town of Smoky Lake duly assembled, enacts as follows:

SECTION 1 SHORT TITLE

1.1 This Bylaw may be cited as the "Fire Bylaw".

SECTION 2 DEFINITIONS

2.1 In this Bylaw:

- a) "Administrator" means the Municipality's Chief Administrative Officer;
- b) "Apparatus" means any vehicle provided with machinery, devices, equipment or materials for firefighting, as well as any vehicles used for transporting firefighters or supplies;
- c) "Contained Fire" means a Fire which is totally confined within a non-combustible structure or container and which is ventilated in such a manner as to preclude the escape of combustible materials including ash;
- d) "Council" means the Council of the Town of Smoky Lake;
- e) "Equipment" means any tools, contrivances, devices or materials used by the Fire Department to combat an Incident or other emergency;
- f) "False Alarm" means any notification to the Fire Department or any Member respecting the existence of a condition, circumstance or event containing an imminent serious danger to persons or Property, wherein such a condition, circumstance or event is in fact not in existence;
- g) "Fire" means any combustible material in a state of combustion;
- h) "Fire Chief" means the Member appointed as head of the Fire Department;
- i) "Fire Department" means the Department established by this Bylaw and includes any person duly appointed to the Fire Department by Council or the Fire Chief;
- j) "Fire Department Property" means all Property owned or controlled by the Municipality and designated for use by the Fire Department, regardless of the source of the Property;
- k) "Fire Permit" means a document issued by Council pursuant to this Bylaw, on the form adopted by the Municipality from time to time;
- l) "Fire Protection" means all aspects of Fire safety, including but not limited to, fire prevention, firefighting or suppression, pre-fire planning, fire inspection, fire investigation, public education and information, training or other staff development, advising, and responding to a request for fire protection (including legitimate emergencies and False Alarms);
- m) "Fire Protection Charge" means any or all costs incurred by the Fire Department in providing Fire Protection;

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- n) "Incident" means a Fire, a situation where a Fire or explosion is imminent or any other situation presenting a Fire or possible danger to life or property;
- o) "Incinerator Fire" means a Fire that is confined within a non-combustible structure or container that has the draft and smoke vents thereof covered with a gauge metal screen having a mesh size not larger than 13 mm., which Fire is set for the purpose of burning household refuse;
- p) "Member" means any person that is a duly appointed Member of the Fire Department, and includes the Fire Chief;
- q) "Municipality" means the Town of Smoky Lake;
- r) "Officer" means a Member appointed as the Fire Chief or a Deputy Chief and includes the Chief Administration Officer;
- s) "Outdoor Fire" mean any Fire not contained within a building or structure and shall include Fire involving humus soil, piles of coal, farm produce, waste, bush, grass, seed, straw or any Fire that has escaped or spread from a building, structure, machine or vehicle and any Fire set for the purpose of thawing frozen ground;
- t) "Property" means any real or personal Property, which, without limiting the generality of the foregoing, includes land and structures;
- u) "Recreational Fire" means a Fire on land owned or leased by the Municipality or its agents for recreational purposes and is confined to a non-combustible container supplied by the Municipality, as approved by a Member, which is set for the purpose of cooking, obtaining warmth or viewing for pleasure. Such Fire may only be fueled with seasoned wood, charcoal, coal, natural gas or propane;
- v) "Running Fire" means a Fire burning without being under proper or any control of any person;
- w) "Smudge Fire" means a Fire confined within a non-combustible structure or container that is set on land of one (1) acre or more in area for the purpose of protecting livestock from insects or for protecting garden plants from frost;
- x) "Structure Fire" means a Fire confined to and within any building, structure, machine or vehicle which will or is likely to cause the destruction of or damage to such building, structure, machine or vehicle, excluding an Incinerator Fire;
- y) "Wildfire" means a Fire burning not under the control of anyone person over crown land; will be treated in a similar fashion;

SECTION 3 FIRE CHIEF AND APPOINTMENT OF MEMBERS

- 3.1 The Fire Chief shall be appointed by Council upon the recommendation of the Fire Department.
- 3.2 The Fire Chief shall be responsible to Council.
- 3.3 The Council may appoint Officers and additional Members to the Fire Department, and in doing so consider the recommendations of the Fire Chief. These Officers and Members shall be supervised by the Fire Chief or his designate.
- 3.4 The Fire Chief has complete responsibility and authority over the Fire Department, subject to the direction and control of Council, to which he or she shall be responsible, and in particular, may carry out all Fire Protection activities and such other activities as Council directs to which they are sufficiently trained, including, but not limited to:
 - a) Rescue
 - b) Emergency medical services, excepting ambulance services
 - c) Pre-Fire planning
 - d) Disaster
 - e) Preventative patrols

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- 3.5 The Fire Chief, subject to the ratification by the Council by bylaw, may establish rules, regulations, policies and committees necessary for the proper organization and administration of the Fire Department including, but not limited to:
- a) use, care and protection of Fire Department Property;
 - b) conduct and discipline of Officers and Members of the Fire Department;
 - c) efficient operation of the Fire Department; and
 - d) training of Officers and Members of the Fire Department
- 3.6 The Fire Chief, or in his or her absence, the Senior Officer present, shall have control, direction and management of any Fire Department Apparatus, Equipment or manpower, assigned to an Incident and, where a Member is in charge, he or she shall continue to act until relieved by an Officer authorized to do so.
- 3.7 The Fire Chief, or the Member in charge, at an Incident may at his or her discretion establish boundaries or limits and keeps persons from entering the area within the prescribed boundaries or limits unless authorized to enter by him.
- 3.8 The Fire Chief, or the Member in charge, at an Incident may request peace officers to enforce restrictions on persons entering within the boundaries of limits outlined in Section 3.7.
- 3.9 The Fire Chief, or the Member in charge, at an Incident is empowered to enter to take all steps he or she deems necessary in order to directly or indirectly combat, control or deal with an Incident, including:
- a) pass through or over buildings or Property adjacent to an Incident and to cause Members of the Fire Department and the Apparatus and Equipment of the Fire Department to enter or pass through or over the building or Property.
 - b) cause a building, structure or thing to be pulled down, demolished or otherwise removed.
- 3.10 The Fire Chief may obtain assistance from other officials of the Municipality as he or she deems necessary in order to discharge his or her duties and responsibilities under this Bylaw.
- 3.11 Regulations, rules or policies made pursuant to Section 3.6 of this Bylaw shall not be inconsistent with the legislation and regulations of the Province of Alberta.
- 3.12 The limits of the jurisdiction of the Fire Chief, Officers and Members of the Fire Department will extend to the area and boundaries of the Municipality and no part of the fire Apparatus or Equipment shall be used beyond the limits of the jurisdiction without:
- a) the express authorization of a written contract or agreement providing for the supply of Fire Protection outside the Municipality's boundaries; or
 - b) the approval of Council.

SECTION 4 POWERS OF MEMBERS

- 4.1 Each Member shall have the authority and power to:
- a) extinguish or control the Fire or the operations to preserve life and Property and enter onto any Property for the purpose of extinguishing or controlling the Fire.
 - b) prevent interference with the efforts of persons engaged in the extinguishing of Fires or preventing the spread thereof by regulating the conduct of the public at or in the vicinity of any Fire.

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SECTION 5 POWERS OF OFFICERS

- 5.1 Each Officer shall have the authority and power to:
- a) during an Incident, commandeer and authorize payment for the possession or use of any Equipment for the purpose of fighting the Fire, where that payment has been authorized pursuant to the budget for the Fire Department.

SECTION 6 FIRE PROTECTION CHARGES

- 6.1 Upon providing Fire Protection on Property within or outside the Municipality's boundaries, the Municipality may in its sole and absolute discretion charge:
- a) the person causing or contributing to the Fire; or
 - b) the owner or occupant of the Property
- a Fire Protection Charge, and all individuals are jointly and severally responsible for the Fire Protection Charge.
- 6.2 The schedule of fees for Fire Protection Charges shall be as set out in Schedule "A" attached hereto and forming part of this Bylaw.
- 6.3 A Fire Protection Charge shall be paid within sixty (60) days of being levied.
- 6.4 Collection of unpaid Fire Protection Charges may be undertaken by civil action in a court of competent jurisdiction, and any civil action does not invalidate any lien which the Municipality is entitled to on the Property in respect of which the indebtedness is incurred.
- 6.5 The owner of a parcel to which Fire Protection is provided is liable for Fire Protection Charges incurred, and the Municipality may add to the tax roll of a parcel of land all unpaid Fire Protection Charges.

SECTION 7 FIRE PERMITS

- 7.1 An application for a Fire Permit for an Outdoor Fire or a Structure Fire shall be made to Council in writing on the form adopted by the Municipality from time to time. The Fire Chief or his designate shall consider the application, and after having done so, he may recommend to the Council whether a Fire Permit should be issued. Council will then have the absolute discretion, to issue to the applicant a Fire Permit. Other types of requests for a Fire Permit may be issued at the absolute discretion of the Fire Chief.
- 7.2 When issuing a Fire Permit Council or the Fire Chief may issue the Fire Permit unconditionally or impose conditions considered appropriate.
- 7.3 Fire Permits issued pursuant to this Bylaw are valid for such period of time as shall be determined and set by Council and endorsed on the Fire Permit.
- 7.4 Council may extend the period of time that a Fire Permit is valid, provided the Fire Permit has not expired.
- 7.5 Council may, in its absolute discretion, suspend or cancel a Fire Permit at any time.
- 7.6 Each application for a Fire Permit must contain the following information:
- a) The name and address of the applicant.
 - b) The legal description of the land on which the applicant proposes to set a Fire.

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- c) The type and description of materials which the applicant proposes to burn.
- d) The period of time for which the Fire Permit is valid.
- e) The precautions, if any, 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.

7.7 A Fire Permit is not transferable.

SECTION 8 ENFORCEMENT

8.1 Where Property does not comply with this Bylaw or a person contravenes this Bylaw, the Municipality may pursue its enforcement alternatives in accordance with any Act, or common law right, including issuance of an order to remedy contraventions, remedying contraventions by the Municipality, adding amounts to the tax roll, and pursuing injunctions pursuant to the Municipal Government Act.

SECTION 9 NOTICE

9.1 Any notice provided for in this Bylaw shall be in writing.

9.2 Service of any notice provided for in this Bylaw may be made as follows:

- a) Personally upon the person to be served, or
- b) By mailing the copy to the person to be served by double registered mail or certified mail to the last known post office address of the person to be served, and service shall be deemed to be effected at the time the copy is delivered by an official of the post office to the person to be served or to any person receiving it on his or her behalf.
- c) Where the Property is not occupied, by mailing the notice by double registered mail or certified mail to the mailing address noted on the Municipality's tax roll for that Property, and service shall be deemed to be effected at the time the copy is delivered by an official of the post office to the person to be service or to any person receiving it on his or her behalf;
- or
- d) As directed by the Court.

SECTION 10 APPEAL

10.1 A person who considers himself aggrieved by a written order given pursuant to this Bylaw may appeal the direction to the Council, under the terms prescribed by the Municipal Government Act.

SECTION 11 INTERFERENCE WITH DUTIES

11.1 No person shall obstruct the Administration or a person authorized to inspect Property or to perform any work necessary to remedy a condition, from performing his or her duties under this Bylaw.

SECTION 12 OFFENCES

12.1 No person shall:

- a) impede, obstruct or hinder a Member of the Fire Department, or other person assisting or acting under the direction of the Fire Chief or the Member in charge at any Incident.
- b) damage or destroy Fire Department Apparatus or Equipment.
- c) at an Incident, drive a vehicle over any Apparatus or Equipment without permission of the Fire Chief or the Member in charge.
- d) at an Incident, enter the boundaries or limits of an area prescribed in accordance with Section 3.7 unless he has been authorized to enter by the Fire Chief or the Member in charge.

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- e) obstruct a Member from carrying out any function or activity related in any way to Fire Protection.
- f) falsely represent themselves as a Member or wear or display any Fire Department badge, cap, button, insignia, or other paraphernalia for the purpose of such false representation.
- g) obstruct or otherwise interfere with access roads or streets or other approaches to any Fire alarm, fire hydrant, cistern or body of water designated for fire-fighting purposes or any connections provided to a fire main, pipe, stand pipe, sprinkler system, cistern, or other body of water designated for fire-fighting purposes.
- h) light any Fire including an Outdoor Fire or Structure Fire unless that person is the holder of a subsisting Fire Permit unless:
 - i. the Fire is an Incinerator Fire.
 - ii. the Fire has been set by a Member for the purpose of training Members.
 - iii. the Fire is a Recreational Fire; or
 - iv. the Fire is a Contained Fire.
- i) permit an Outdoor Fire or Structure Fire to be lit upon lands that is owned or occupied by that person, or under that person's control except when such a Fire is allowed under this Bylaw.
- j) when a Fire is set under the circumstances described in Section 13.1(h), the owner or occupier of land, or the person having control of the land upon which the Fire is lit shall:
 - i. extinguish the Fire immediately; or
 - ii. if unable to extinguish the Fire immediately, report the Fire to the Fire Department.
- k) either directly, or indirectly, personally or through a agent, servant, or employee kindle a Fire or let it become a Running Fire on any land.
- l) light a Fire without first taking sufficient precautions to ensure that the Fire can be kept under control at all times.
- m) light a Fire when the weather conditions are conducive to creating a Running Fire.
- n) fail to take reasonable steps to control a Fire for the purpose of preventing it from becoming a Running Fire or from spreading onto Property other than his or her own.
- o) deposit, discard, or leave any burning matter or substance where it might ignite other materials and cause a Fire.
- p) conduct any activity that involves the use of Fire that might reasonably be expected to cause a Fire unless that person exercises reasonable care to prevent the Fire from occurring.
- q) knowingly make a false statement in a Fire Permit application.
- r) use a Fire to burn:
 - i. manure.
 - ii. livestock or other animal carcasses.
 - iii. material that will result in the production of dense black smoke, including insulation from electrical wiring or equipment, asphalt roofing materials, hydrocarbons, plastics, or other materials or creosoted wood, or
 - iv. herbicides, pesticides or other toxic materials or substances.
- s) conduct any activity that involves the use of a Fire, where smoke from the Fire will impede visibility of the vehicular traffic and pedestrian traffic on any Highway as defined in the Highway Traffic Act R.S.A. 1980 c.H-7.
- t) light a Fire or burn any material contrary to federal, provincial, or municipal legislation or regulations.
- u) use a Fire to burn all normal waste which results from the operation of a household or commercial business or occupation and shall include without restricting the foregoing, paper, rags, lawn and hedge clippings, packaging materials, and waste from the preparation of food unless the same is burned pursuant to the terms of a Permit, or within an Incinerator.

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SECTION 13 PENALTIES

- 13.1 Any person who:
- a) violates any provision of this Bylaw
 - b) suffers or permits any act or thing to be done in contravention of or in violation of any provision of this Bylaw.
 - c) neglects to do or refrains from doing anything required to be done by the provisions of this Bylaw; or
 - d) does any act or thing or omits any act or thing, thus violating any provisions of this Bylaw;

is guilty of an offence under of the Bylaw, and upon a conviction, is liable to a fine of not less than \$200.00 and not more than \$2,500.00 as outlined in Schedule "B" to this Bylaw.

- 13.2 No person found guilty of an offence pursuant to this Bylaw shall be liable to imprisonment.

SECTION 14 MISCELLANEOUS

- 14.1 This Bylaw shall come into effect upon the final passing thereof.
- 14.2 Bylaws No. 515 and 614-89 are hereby repealed.
- 14.3 Nothing in this Bylaw shall be construed to give the Fire Department or the Fire Chief control or authority respecting ambulance services.
- 14.4 Should any section or part of this Bylaw be found to be improperly enacted or ultra vires, for any reason, then such section or part shall be regarded as being severable from the Bylaw and the Bylaw remaining after such severance shall be effective and enforceable.

SECTION 15 VIOLATION TAGS

- 15.1 A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 15.2 A Violation Tag may be issued to such person:
- a) Either personally, or
 - b) By mailing a copy to such person at his or her last known Post Office address.
- 15.3 The Violation Tag shall be in a form approved by the Municipality or the responsible Officer of the Municipality and shall state:
- a) The name of the person.
 - b) The offence.
 - c) The appropriate penalty for the offence as specified in Schedule "B" of this Bylaw.
 - d) That the penalty shall be paid within thirty (30) days of the issuance of the Violation Tag.
 - e) Any other information as may be required by the Municipality.
- 15.4 Where an offence of this Bylaw continues for more than one day, a Bylaw Enforcement Officer may issue one Violation Tag for each day that the offence continues.
- 15.5 Where a Violation Tag is issued pursuant to this Bylaw, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Municipality's Treasurer the penalty specified in the Violation Tag.

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15.6 Nothing in this Bylaw shall prevent a Bylaw Enforcement Officer from immediately issuing a Violation Ticket for the mandatory Court appearance of any person who contravenes any provision of this Bylaw.

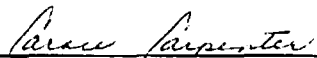
SECTION 16 VIOLATION TICKETS

16.1 If the penalty specified in a Violation Tag is not paid within the prescribed time period, then a Bylaw Enforcement Officer may issue a Violation Ticket pursuant to Part II of the Provincial Offenses Procedure Act.

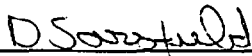
SECTION 17 EFFECTIVE DATE

17.1 This Bylaw shall come into force and effect on the final date of passing thereof.

Read a First time this 15th day of September, 1998.




Carole Carpenter, Mayor



David Sarsfield, Town Manager

Read a Second time this 6th day of October, 1998.

Read a Third and Final time this 6th day of October, 1998 and finally passed.



Carole Carpenter, Mayor



David Sarsfield, Town Manager

Schedule "A"
Fire Protection Charges

One Hundred (\$100.00) Dollars for each hour, or part thereof, of Fire Protection.

Any other disbursement or expenses incurred by the Municipality in the provision of Fire Protection, including but not limited to:

- a) the hiring of independent contractors to provide services and/or equipment; or
- b) the charges incurred by the Municipality through Mutual Aid Agreements with other Municipal Jurisdictions.

Schedule "B"
Penalties Imposed Pursuant to Violation Tags

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