

BYLAW 13-16

A BYLAW OF THE TOWN OF OKOTOKS IN THE PROVINCE OF ALBERTA TO REGULATE OPEN BURNING

WHEREAS pursuant to the provision of the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26 and amendments thereto, Council may pass a bylaw for municipal purposes respecting the safety, health and welfare of people, the protection of people and property, the prevention of nuisances, and for services provided by or on behalf of the municipality; and

WHEREAS Council deems it desirable to regulate open burning for the purposes of fire safety and to control the nuisance effects on people and properties in the vicinity of such open burning;

NOW THEREFORE the Council of the Town of Okotoks enacts as follows:

1. SHORT TITLE

This Bylaw may be known as the “Open Burning Bylaw”.

2. DEFINITIONS

In this Bylaw, unless the context otherwise requires that:

- 2.1 **Chief Administrative Officer (CAO)** means the CAO of the Town of Okotoks appointed by Council, or designate;
- 2.2 **contained fire** means a fire which is totally confined within a fire pit or other non-combustible structure which is ventilated in such a manner so as to prevent the escape of combustible materials, including ash;
- 2.3 **Council** means the Council of the Town of Okotoks;
- 2.4 **fire** means any combustible material in a state of combustion;
- 2.5 **fire ban** means an order issued by the Fire Chief that restricts or prohibits any type of fire;
- 2.6 **Fire Chief** means the individual appointed as the head of Fire Services, or designate;
- 2.7 **fire permit** means a document approved by the Fire Chief as set out in Schedule “B” of this Bylaw;

- 2.8 **fire pit** means a structure with enclosed sides made from bricks, concrete blocks, heavy gauge metal, or other non-combustible material deemed acceptable for a contained fire or recreational fire by the Fire Chief;
- 2.9 **Fire Services** means the Fire Services Department established by Council and organized by the Town consisting of, but not limited to, all persons appointed or recruited to various positions within Fire Services, all buildings, equipment, apparatus, materials and supplies used in the operation, maintenance, and administration of Fire Services;
- 2.10 **nuisance** means any condition on or around a property that is dangerous to the safety or health of individuals, or which interferes with the use or enjoyment of other property;
- 2.11 **open burning** means any fire that is not a contained fire or a recreational fire;
- 2.12 **owner** means:
- a) a person who is registered under the *Land Titles Act* as the owner of a parcel of land;
 - b) a person who is recorded as the owner of a property on the tax assessment roll of the Town;
 - c) a person who has purchased or otherwise acquired a parcel of land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not yet become the registered owner thereof;
 - d) a person holding himself out as the person having the powers and authority of ownership of a property or premises or who, for the time being, exercises the powers and authority of ownership;
 - e) a person controlling a property or premises under construction; or
 - f) a person who is the occupant of a property or premises pursuant to a rental or lease agreement, license, or permit.
- 2.13 **Peace Officer** means:
- a) a member of the Royal Canadian Mounted Police;
 - b) a Community Peace Officer as appointed by the Solicitor General of Alberta; or
 - c) a Bylaw Enforcement Officer as appointed by the Town to enforce bylaws of the Town;

- 2.14 **person** means an individual or any business entity including a firm, partnership, association, corporation, company or society;
- 2.15 **portable cooking appliance** means an appliance sold or constructed for the sole purpose of cooking food outdoors normally fired by propane, natural gas, wood pellets, charcoal, briquettes, or other fuel source;
- 2.16 **recreational fire** means a contained fire for the purposes of obtaining warmth or for viewing pleasure;
- 2.17 **Town** means the Town of Okotoks, a municipal corporation in the Province of Alberta, and where the context so requires, means the area of land within the corporate boundaries thereof;
- 2.18 **violation tag** means a notice or tag in the form as approved by the CAO, issued by the Town, allowing a voluntary payment option of a fine established under this Bylaw;
- 2.19 **violation ticket** means a ticket issued pursuant to Part 2 of the Provincial Offences Procedures Act, Revised Statutes of Albert 2000, Chapter P-34 and any amendments or regulations thereto.

3. OPEN BURNING

- 3.1 No person shall cause or allow open burning of any fire unless they have applied for and been issued a fire permit by the Fire Chief.

4. EXEMPTIONS

- 4.1 A fire permit is not required for any contained fire, recreational fire, or portable cooking appliance.
- 4.2 Any contained fire or recreational fire permitted by this bylaw shall not:
- a. be located in a front yard;
 - b. be less than 2 meters away from any structure or property line;
 - c. be located beneath any tree or the branches of any tree;
 - d. continue to burn when the wind is blowing or gusting above 30 km/h; or
 - e. be left unattended at any time.

- 4.3 Any fire permitted by this bylaw shall be contained to a reasonable size so that the fire, embers, sparks or smoke emanating from such fire do not endanger any person or property, or cause any objectionable or nuisance effects to nearby persons or property.
- 4.4 Any fire permitted by this bylaw shall only be fueled by clean and dry burning materials and those materials shall not contain any preservatives.
- 4.5 Any fire permitted by this bylaw that does not comply with 4.2, 4.3 or 4.4 may require the property owner or person responsible for the fire to relocate, remove, or extinguish the fire as ordered by Fire Services or a Peace Officer.

5. FIRE BANS

- 5.1 Notwithstanding any provisions of this or any other bylaw, when, in the opinion of the Fire Chief, there is a necessity to do so, the Fire Chief may:
 - a) declare a partial fire ban for specified areas of the Town; or
 - b) declare a complete fire ban of any kind of burning for all areas of the Town.
- 5.2 When a fire ban is in effect, all fire permits are suspended unless otherwise directed by the Fire Chief.
- 5.3 Any fire ban issued by the Fire Chief shall be in force until the fire ban is lifted by the Fire Chief.
- 5.4 When determining whether to declare a fire ban, the Fire Chief will take into consideration any or all of the following:
 - a) the air quality index;
 - b) recent levels of precipitation;
 - c) any water shortages or restrictions;
 - d) the overall fire danger at the location of the fire; and
 - e) the availability of Fire Services to respond to additional calls for service.
- 5.5 The Fire Chief shall give public notice of any fire bans issued through websites, media announcements or any other methods deemed necessary.
- 5.6 No person shall cause or allow open burning, nor have a contained fire or recreational fire of any size when a fire ban has been declared.

- 5.7 If a fire ban has been declared, failure to be aware of such fire ban shall not constitute a valid defense for any contravention of such fire ban.
- 5.8 Fire Services or a Peace Officer may direct a person to extinguish any fire which is in contravention of a declared fire ban.

6. PENALTIES AND ENFORCEMENT

- 6.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than Ten Thousand (\$10,000.00) Dollars, imprisonment for a term not exceeding one (1) year, or both.
- 6.2 Where there is a specified penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the minimum specified penalty for the offence.
- 6.3 In the case of an offense that is of a continuing nature, a contravention constitutes a separate offense in respect of each day or part of a day on which it continues.
- 6.4 The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a person from the necessity of paying any fees, charges or costs from which that person is liable under the provisions of this Bylaw or any other Bylaw.
- 6.5 Any Peace Officer who has reasonable and probable grounds to believe that any person has contravened any provision of this Bylaw may issue and serve:
 - a) a violation tag allowing a payment of the specified penalty to the Town; or
 - b) a violation ticket allowing payment according to the provisions of the Provincial Offences Procedure Act, Revised Statutes of Alberta 2000, Chapter P-34 and amendments thereto.
- 6.6 Service of a violation tag will be sufficient if it is
 - a) personally served; or
 - b) served by regular mail to the person's last known mailing address.
- 6.7 If a violation ticket is issued in respect to an offence, the violation ticket may:
 - a) specify the fine amount established by this Bylaw for the offence; or
 - b) require a person to appear in Court without the alternative of making a voluntary payment.

6.8 A person who commits an offence may:

- a) if a violation ticket is issued in respect of the offence; and
- b) if the violation ticket specified the fine amount established by this Bylaw for the offence;

make a voluntary payment equal to the specified fine by delivering the violation ticket and the specified fine to the Provincial Courthouse specified on the violation ticket.

7. SEVERABILITY

7.1 It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of Council that if any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.

8. GENERAL

8.1 Any Person who contravenes any provision of this Bylaw by:

- a) doing any act or thing which the person is prohibited from doing; or
- b) failing to do any act or thing the person is required to do;

is guilty of an offence and any offence created pursuant to this Bylaw is a strict liability offence for the purposes of prosecution under this Bylaw.

8.2 Nothing in this Bylaw relieves a Person from complying with any provision of any federal or provincial law or regulation, other Bylaw, or any requirement of any lawful permit, order or license.

8.3 Words in the singular include the plural and words in the plural include the singular.

8.4 This bylaw is gender-neutral and, accordingly, any reference to one gender includes the other.

8.5 Schedule "A" shall form a part of this Bylaw and may, from time to time, be amended by Council.

8.6 Schedule "B" shall form a part of this Bylaw and may, from time to time, be amended.

8.7 No provision of this Bylaw or any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the Town from pursuing any other remedy in relation to a premises as provided by the Municipal Government Act, or any other law of the Province of Alberta.

Bylaw 38-96 of the Town and any amendments thereto are hereby repealed upon this Bylaw coming into effect.

This Bylaw shall come into full force and effect upon third and final reading,

READ A FIRST TIME this 13th day of June, 2016.

READ A SECOND TIME this 27th day of June, 2016.

READ A THIRD TIME AND PASSED this 27th day of June, 2016.

Mayor

Municipal Secretary

Schedule "A"

SECTION	OFFENCE	PENALTY 1st offence	PENALTY 2nd /subsequent offences
3.1	Cause or allow open burning without a permit	\$250.00	\$500.00
4.2 a)	Have fire in front yard	\$250.00	\$500.00
4.2 b)	Have fire less than 2 m from structure or property line	\$250.00	\$500.00
4.2 c)	Have fire beneath tree or branches	\$250.00	\$500.00
4.2 d)	Have fire when wind above 30 km/h	\$250.00	\$500.00
4.3	Have fire of unreasonable size / cause objectionable or nuisance effects	\$250.00	\$500.00
4.4	Have fire using incompatible material	\$250.00	\$500.00
5.6	Have fire during declared fire ban	\$500.00	\$1000.00

Schedule "B"

FIRE PERMIT

THAWING

BON FIRE

SPECIAL

DATE OF APPLICATION (YY/MM/DD)

NAME OF APPLICANT

CONTACT PHONE NUMBERS

ADDRESS OF APPLICANT

EMERGENCY PHONE NUMBERS

LOCATION/ADDRESS OF BURNING

DATE OF BURNING

TIME OF BURNING

SPECIAL CONDITIONS

EXCEPTIONS

NO BURNING DURING WINDS OF HIGHER THAN 30 KM/H VELOCITY.

MATERIAL

NO OFFENSIVE MATERIALS MAY BE BURNT, INCLUDING TAR PAPER, RUBBER, ASPHALT SHINGLES, OILY RAGS, LEATHER, ETC.

OPEN BURNING

NEVER LEFT UNATTENDED, AT A SAFE DISTANCE FROM COMBUSTIBLE MATERIALS AND BUILDINGS, SOME FORM OF EXTINGUISHING EQUIPMENT AT HAND.

THAWING FIRES

REGARDLESS OF SIZE, EACH THAWING FIRE SHALL BE COVERED WITH A NON-COMBUSTIBLE COVER i.e., A CULVERT IN HALF, SHEET METAL etc. THE COVER WILL BE PLACED SO AS TO PREVENT THE WIND FROM SPREADING THE FIRE AND / OR SPARKS.

FIRE RESPONSE

IF THE FIRE DEPARTMENT RESPONDS TO A COMPLAINT AND FINDS THAT ANY OF THE CONDITIONS OF THE PERMIT ARE NOT ADHERED TO, OR, THAT THE SMOKE FROM THE FIRE IS OFFENSIVE OR CAUSING DAMAGE TO PROPERTY, THE FIRE WILL BE EXTINGUISHED AND THIS MAY LEAD TO THE PERMIT BEING REVOKED.

SIGNATURE OF APPLICANT/PERMIT HOLDER

SIGNATURE OF ISSUER