

# **TOWN OF OKOTOKS**

## **BYLAW 10-09**

### **BEING A BYLAW IN THE TOWN OF OKOTOKS IN THE PROVINCE OF ALBERTA TO CONTROL VENTING OF SOLID FUEL BURNING APPLIANCES WITHIN THE TOWN OF OKOTOKS**

**WHEREAS:** Pursuant to the provisions of section 7 the *Municipal Government Act*, Statutes of Alberta, RSA 2000, Chapter M-26 and amendments thereto, Council may pass a Bylaw for the purposes of ensuring the safety, health and welfare of people and protection of people and property within the Town of Okotoks;

**AND WHEREAS:** Council deems it necessary to pass a Bylaw to address the manner in which solid fuel burning appliances are vented within the limits of the Town of Okotoks so the exhaust, fumes and smoke do not cause a nuisance to neighbouring properties;

**NOW, THEREFORE, THE MUNICIPAL COUNCIL OF THE TOWN OF OKOTOKS, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:**

#### **1. TITLE**

This Bylaw may be cited as the "Venting of Solid Fuel Burning Appliances Bylaw".

#### **2. ENACTMENT**

- 2.1 This Bylaw is not intended to derogate or vary from the requirements of the Alberta Building Code, 2006 (or any applicable future Codes) in the installation of a Solid-Fuel Burning Appliance; it is solely intended to regulate the direction in which the smoke and exhaust from such an appliance is directed after it leaves the appliance so as not to cause a nuisance to neighbouring or adjacent properties. The *Safety Codes Act*, *Statutes of Alberta RSA 2000* and the Alberta Building Code, 2006 and any successor regulations and/or legislation shall regulate the standards and requirements of the installation; this Bylaw only addresses the direction of the venting of the exhaust, fumes and smoke so as to not cause a nuisance to neighbouring properties.
- 2.2 After the passage of this bylaw, any owner of a building or structure in which a system of ventilation for a Solid Fuel Burning Appliance as defined by the Alberta Building Code, 2006 is being installed, altered or replaced shall ensure that the ventilation system is installed in such a manner that the exhaust, fumes and smoke being emitted from the appliance are released vertically into the air above the roof line of the building or structure containing the appliance.
- 2.3 Failure to comply with Section 2.2 shall constitute an offence under this Bylaw.

### **3. ENFORCEMENT**

- 3.1 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 violation on a premises as provided by this Bylaw, the Municipal Government Act, or any other law of the Province of Alberta.
- 3.2 The Chief Administrative Officer and other duly appointed Town officials are charged with the responsibility and authority to enforce and carry out the provisions of this Bylaw. Any person so authorized and/or contracted by the CAO or the Council to carry out any inspection and remedial work on a premises or property pursuant to the provisions of this Bylaw shall have the right to enter upon any such property, other than a dwelling house, to carry out such inspections or work.
- 3.3 A Peace Officer, when investigating an alleged contravention of this Bylaw, is hereby authorized to enter upon any lands, buildings or premises, other than a dwelling house, to inspect for contravention of the provisions of this Bylaw. A Peace Officer may thereafter issue a verbal or written order to the owner or occupant thereof to remedy any contravention of this Bylaw.
- 3.4 In the event that any person fails or neglects or refuses to remedy the contravention of this Bylaw, after having been ordered to remedy such condition, Council may cause such work to be done as is considered necessary to remedy such contravention and charge the cost of such work to the owner or occupant, and in default of payment:
- a) Recover the cost as a debt due to the municipality, or
  - b) Charge the cost against the land concerned as taxes due and owing in respect of that land and to recover the cost as such.
- 3.5 Where a premises or property is found to be in non-compliance with any provision of this Bylaw, the owner may be served with a Notice containing the following:
- a) The address and/or physical location where remedial action is required;
  - b) The condition or conditions that are not in compliance with this Bylaw;
  - c) The remedial action that is required; and
  - d) The deadline for completion of the remedial action required.
- 3.6 Where a Notice is issued and served on the owner and the specified remedial action is not taken by the specified deadline, the Town may take all reasonable measures to remedy in a timely manner the contravention specified in the Notice.
- 3.7 Any Notice issued pursuant to this Bylaw will be deemed to have been sufficiently served upon the owner of a property or premises:
- a) When served personally upon the owner, or served substitutionally upon any person who is 18 years of age or older who resides in the subject premises, if the premises is occupied by the owner;



- b) When served personally upon an occupant of the premises who is eighteen (18) years of age or older, or the manager or person apparently in charge of the premises, if the premises is not occupied by the owner;
- c) When posted at a conspicuous location on the property or premises;
- d) When given verbally by a Peace Officer to the owner or any occupant of the premises who is eighteen (18) years or older, and where said verbal Notice includes all the information required by section 3.5 of this Bylaw;
- e) When mailed by regular or registered mail to the owner of the premises using the address provided by the owner and on record with the Town of Okotoks.

3.8 The owner of premises who has been issued a Notice pursuant to section 3.5 of this Bylaw shall fully comply with the Notice within the time allowed for compliance. Failure to comply with a Notice served hereunder shall constitute an offence under this Bylaw.

3.9 Notwithstanding the foregoing enforcement process, at his option, where a Peace Officer has reasonable grounds to believe that a person has contravened section 2.2 of this Bylaw, the Peace Officer may commence proceedings against such person by:

- a) Issuing the person a Violation Ticket pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*; or
- b) Swearing out an Information and Complaint against the person.

3.10 Where a Peace Officer issues a person a Violation Ticket in accordance with section 3.9(a) of this Bylaw, the officer may either:

- a) Allow the person to pay the specified penalty as provided for in section 5.1 of this Bylaw by indicating such specified penalty on the Violation Ticket; or
- b) Require a Court appearance of the person where the Peace Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*.

#### **4. GENERAL PENALTY PROVISION**

4.1 Any person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of TEN THOUSAND DOLLARS (\$10,000.00) or in default of payment of the fine to imprisonment for a period not exceeding one (1) year, or to both fine and imprisonment in such amounts.

#### **5. MINIMUM AND SPECIFIED PENALTIES**

5.1 The specified penalty for a violation of any provision of this Bylaw is a fine in the amount of FIVE HUNDRED DOLLARS (\$500), and the minimum fine allowable for any such violation is THREE HUNDRED DOLLARS (\$300).

**6. GENERAL**

- 6.1 It is the intention of the Council of the Town that each provision of this Bylaw should be considered as being separate and severable from all other provisions. Should any section or provision of this Bylaw be found to have been improperly enacted, then such section or provision shall be regarded as being severable from the rest of this Bylaw and that the Bylaw remaining after such severance shall remain effective and enforceable.
- 6.2 It is the intention of the Council of the Town that all offences created pursuant to this Bylaw be construed and considered as being Strict Liability Offences.
- 6.3 Whenever the singular and masculine gender is used in this Bylaw, the same shall include the plural, feminine and neuter gender whenever the context so requires.

Read a first time this 9<sup>th</sup> day of February, 2009.

Read a second time this 9<sup>th</sup> day of February, 2009.

Read a third time this 23<sup>rd</sup> day of February, 2009.

- Original Signed -

\_\_\_\_\_  
Mayor

- Original Signed -

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Municipal Secretary