

PARKLAND COUNTY

BY-LAW NO. 48-2003

**A BYLAW OF PARKLAND COUNTY IN THE PROVINCE OF ALBERTA
AUTHORIZING THE PREVENTION AND CONTROL OF FIRES**

WHEREAS Sections 7 and 8 of the *Municipal Government Act* R.S.A. 2000, chapter M-26 provide that Council may pass bylaws for the prevention or the extinguishing of fires, the preservation of life and property, the protection of persons from injury or destruction by fire and provide the Municipality authority to establish a system of licenses, permits or approvals within Parkland County; and

WHEREAS the *Forest and Prairie Protection Act* R.S.A. 2000 chapter F-19 grants certain additional powers to Parkland County and pursuant to Section 75(1) of the *Municipal Government Act* (supra) Council can pass bylaws for the prevention of prairie or running fires and for the enforcement of the provisions of the *Forest and Prairie Protection Act* (supra); and

WHEREAS the Council of Parkland County pursuant to the powers granted to it under the *Municipal Government Act* (supra) and the *Forest and Prairie Protection Act* (supra) wishes to provide for the prevention, regulation and control of the lighting of fires within Parkland County;

NOW THEREFORE the Council of Parkland County in Council duly assembled hereby enacts as following:

SECTION 1 NAME OF BYLAW

1.1 This Bylaw may be cited as “the Fire Permit Bylaw”.

SECTION 2 DEFINITIONS

2.1 In this Bylaw

- a. **”Burnable Debris”** means criteria of types of material;
- b. **”Council”** means the Council of Parkland County as constituted from time to time;
- c. **”County Commissioner”** means the person appointed as the Chief Administrative Officer of Parkland County;
- d. **”Class A Materials”** means clean wood, paper, twigs and garden chippings, garden debris.

- e. **“Designate”** means any person employed by Parkland County or a Fire Guardian as appointed under the *Forest and Prairie Protection Act* (supra);
- f. **“Fire Ban”** means a provincial ministerial order or an order by a member of Parkland County’s Fire Chief’s office may at their discretion cancel any or all fire permits, prohibiting the lighting or requiring the extinguishment of a fire;
- g. **“Fire Chief”** means the person appointed as head of Parkland County’s Fire Services Department;
- h. **“Fire Chief’s Office”** means the Fire Chief and Deputy Fire Chief;
- i. **“Fire Control Officer”** means any employee of Parkland County’s Fire Services or a Fire Guardian appointed by the Council of Parkland County;
- j. **“Fire Permit”** means a permit issued by a Fire Guardian pursuant to the *Forest and Prairie Protection Act* (supra) or this Bylaw or both allowing for the setting of outdoor fires or structure fires or incinerator fires with Parkland County;
- k. **“Incinerator Fire”** means a fire that is confined within a non-combustible structure, container or barrel with openings covered with a heavy gauge metal screen having a mesh size not larger than 7 millimetres, but does not include any industrial or commercial type incinerator that is required to be licensed under the *Alberta Environmental Protection and Enhancement Act* regulations;
- l. **“Municipal Fire Guardian”** means a person named or appointed as Fire Guardian pursuant to the section 4 *Forest and Prairie Protection Act* (supra) and includes Parkland County Councillors, Special Constables and Parkland County Patrol Officers;
- m. **“Parkland County”** means Parkland County;
- n. **“Neighbour(s)”** means a person who is an owner, renter or person otherwise authorized by an owner or privately owned land adjacent to property to where it is alleged an offence has occurred;
- o. **“Outdoor Fire”** means any fire other than that defined as an Incinerator Fire, Structure Fire, or Smudge Fire, and shall include, but not be limited to, fires involving humus, wood, soil, farm produce, bush, grass, feed, straw, coal or any fire that has escaped or spread from a building, structure, machine, vehicle or incinerator. An Incinerator Fire or Smudge Fire without the required metal screen shall be deemed to be an Outdoor Fire;
- p. **“Person”** means an individual and includes a firm, partnership, joint venture, proprietorship, corporate, association, society and any other legal entity;
- q. **“Portable Appliance”** means any appliance sold or constructed for the purpose of cooking food in the out of doors.

- r. **"Prohibited Debris"** means any flammable debris or waste material that when burned, may result in the release to the atmosphere of dense smoke, offensive odours or toxic air contaminants, pursuant to Alberta Regulation 110/93;
- s. **"Restricted Burn Area"** means an area within Parkland County as designated by the Council;
- t. **"Running Fire"** means a fire burning without being under the proper control of any person;
- u. **"Smudge Fire"** means a fire set for the purpose of protecting livestock from insects or for protecting garden plants from frost;
- v. **"Special Constable"** means a person as appointed under Section 42 of the *Police Act* R.S.A. 2000 Chapter P-17;
- w. **"Specified Penalty"** means a penalty specified in Schedule A which may be paid in response to a violation ticket, for an alleged offence of any section of this Bylaw;
- 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; and
- y. **"Violation Ticket"** means a ticket issued for an offence committed against any of the provisions of this Bylaw and shall be a Part 2 ticket as prescribed in the *Provincial Offences Procedure Act* R.S.A. 2000, Chapter P-34.

SECTION 3 FIRE GUARDIANS

- 3.1 Each year before the first of March, Council shall appoint a sufficient number of Fire Guardians to enforce the provisions of the *Forest and Prairie Protection Act* (supra) and this Bylaw within the boundaries of Parkland County.

SECTION 4 POWERS OF FIRE GUARDIANS

- 4.1 Unless otherwise limited by the Fire Chief, each Fire Guardian shall have the authority and power to:
 - a. issue a Fire Permit in respect of any land with Parkland County;
 - b. issue a Fire Permit unconditionally or impose conditions upon the applicant which the Fire Guardian considers appropriate;
 - c. may suspend or cancel at any time a Fire Permit and on receiving notice of the suspension or cancellation the person concerned shall immediately extinguish any fire set pursuant to his or her permit;

- d. enforce the provisions of the *Forest and Prairie Protection Act* (supra) and this Bylaw within the boundaries of Parkland County;
- e. refuse issuance of permit on reasonable and probable grounds that a public interest risk exists for the proposed fire.

SECTION 5 FIRE PERMITS

- 5.1 In addition to any Fire Permit required under the *Forest and Prairie Protection Act* (supra), Fire Permits shall be required under this Bylaw for the period of January 1 to December 31 each calendar year. Council from time to time by resolution may establish a fee for issuing a Fire Permit.
- 5.2 Notwithstanding clause 5.1 of this Section, any Fire Permit issued pursuant to the *Forest and Prairie Protection Act* (supra) shall be deemed for all purposes to be a Fire Permit issued pursuant to this Bylaw.
- 5.3 An application for a Fire Permit for an Outdoor Fire or a Structure Fire shall be made to a Fire Guardian verbally or in writing and the Fire Guardian shall receive and consider the application and, after having done so, he may, in his absolute discretion, issue or refuse issuance to the applicant.
- 5.4 When issuing a Fire Permit a Fire Guardian may issue the Fire Permit unconditionally or he may impose conditions considered appropriate.
- 5.5 Fire Permits issued pursuant to this Bylaw are valid for such period of time as shall be determined and set by the Fire Guardian issuing the permit, but in any case shall not exceed ninety (90) days. The Fire Permit shall have endorsed thereon the period of time for which the said permit is valid.
- 5.6 Each application for a Fire Permit must contain the following information:
 - a. the name and address of the applicant;
 - b. the legal description or municipal address of the land on which the applicant proposes to set a fire;
 - c. the type and description of material which the applicant proposes to burn;
 - d. the period of time the Fire Permit is valid;
 - e. the precautions that will be taken by the applicant to ensure that the proposed fire remains under his control;
 - f. the signature of the applicant;
 - g. the signature of the Fire Guardian issuing the Fire Permit.

5.7 Where an emergency or a potential emergency exists, the Fire Chief or his designate shall be empowered to suspend all Structural Fires, Incinerator Fires, Outdoor Fires, or any outdoor camping fire lit for cooking or warming purpose within all of a portion or portions of the County for such a period of time and on such conditions as may be determined by the Fire Chief or his designate.

5.8 A Fire Permit shall not be transferable.

SECTION 6 EXEMPTIONS

6.1 A Fire Permit is not required under this Bylaw for the following:

- i) A barbecue/fire pit provided that;
 - a. a minimum of 3 metres clearance from buildings, property lines and combustible materials, or as approved by the Fire Chief's Office is maintained;
 - b. it is constructed of bricks or concrete blocks, or heavy gauge metal, or other suitable non-combustible components;
 - c. it has a spark arrestor mesh screen of 7 millimetres (.25 inches) expanded metal (or equivalent) to contain sparks over the fire at all times;
 - d. they be supervised at all times by a responsible adult person until such time that fire has been extinguished. A fire shall be deemed to include hot ashes and smoldering embers resulting from the fire;
 - e. only wood, charcoal briquettes, propane or natural gas fuels are used; and
 - f. flame height does not exceed 90 cm (3.28) feet above the barbecue/fire pit.
- ii) Within a non-combustible container provided by the County within a designated public park where burning for cooking and warming is permitted.
- iii) A Portable Appliance.
- iv) A Smudge Fire in a non-combustible container covered with a heavy gauge metal screen having a mesh size not larger than 7 millimetres.
- v) An Incinerator Fire in a non-combustible container covered with a heavy gauge metal screen having a mesh size not larger than 7 millimetres.

- 6.2 This Bylaw does not apply to any Industrial or Commercial type incinerator that is required to be licensed under the *Alberta Environmental Protection and Enhancement Act* regulations.
- 6.3 This Bylaw does not apply to fires that are set for the purpose of training fire fighters. No permit is required.
- 6.4 No burning is allowed without a permit in areas designated as Municipal or Environmental Reserve, or in designated Restricted Burn Areas.

SECTION 7 OFFENCES

- 7.1 No person shall light an Outdoor Fire or a Structure Fire unless they are the holder of a subsisting Fire Permit if required under this Bylaw or the *Forest and Prairie Protection Act* (supra) or both.
- 7.2 No person shall allow an Outdoor Fire, a Structure Fire or Smudge Fire to be lit upon land that is owned or occupied by him or under his control except when such fire is permitted pursuant to this Bylaw.
- 7.3 When a fire is lit under the circumstances described in Section 7.2, the owner or occupier of the land or the person having control of the land upon which such fire is lit shall:
 - a. extinguish the fire immediately; or
 - b. where he is unable to extinguish the fire immediately, report the fire to the Fire Department; and
 - c. be liable to prosecution under conviction and/or costs incurred by Parkland County to respond, suppress and extinguish the fire.
- 7.4 No person shall, either directly or indirectly, personally or through an agent, servant or employee ignite a fire and let it become a Running Fire on any land not his own property or allow a Running Fire to pass from his own property to the property of another.
- 7.5 No person shall light an Outdoor Fire, a Structure Fire, an Incinerator Fire or Smudge Fire without first taking sufficient precaution to ensure that the fire can be kept under control at all times.
- 7.6 No person shall place prohibited debris within a fire without prior approval.
- 7.7 No person shall light an Outdoor Fire, a Structure Fire, Incinerator Fire, Smudge Fire, barbecue/fire pit, or portable appliance not fuelled by propane

or natural gas, during a municipal or provincial fire ban pursuant to the *Forest and Prairie Protection Act* (supra).

- 7.8 No person shall light an Outdoor Fire, a Structure Fire, Incinerator Fire, or a barbecue/fire pit fire during a municipal or provincial fire ban pursuant to the *Forest and Prairie Protection Act* (supra) and let it become a Running Fire on any land not his own property, or allow a Running Fire to pass from his own property to the property of another.
- 7.9 No person shall obstruct a municipal constable, Fire Guardian or member of the Fire Chief's Office in the performance of their duties pursuant to this Bylaw or the *Forest and Prairie Protection Act* (supra). Obstruction will include failure to provide access to property and failure to provide information as to identity of individuals.
- 7.10 No person shall disclose false information when applying for a Fire Permit.
- 7.11 No person shall allow any fire to give off a dense smoke or offensive odour in a manner which creates a risk to public safety.
- 7.12 Any person whether in possession of a valid permit or otherwise lights a fire for the purposes described in this Bylaw is responsible to ensure that the burn is conducted in a safe manner.

SECTION 8 PENALTIES

- 8.1 A person who fails to comply with any provision contained in this Bylaw is guilty of an offence and is liable on a conviction to a fine as prescribed in Schedule A, or to imprisonment to a term of not more than six (6) months, or to a fine of not more than TEN THOUSAND (\$10,000.00) DOLLARS, or to both a fine and imprisonment.
- 8.2 Where a person contravenes the same provision of this Bylaw twice or more within one twenty four month period, the specified penalty payable in respect of the second or subsequent contravention shall be as prescribed in Schedule A.
- 8.3 A Special Constable is authorized to enforce this Bylaw under Section 7 of the *Municipal Government Act*, R.S.A. 2000, chapter M-26 if he has reasonable and probable grounds to believe that a person has contravened any section of this Bylaw; may under the authority of the *Provincial Offences Procedures Act* (Alberta) issue a Part 2 Violation Ticket to that person.

8.4 Where the Department has taken any action whatsoever for the purpose of extinguishing a fire or responding to a fire call or incident in or outside the County or for the purpose of preserving life or property from injury or destruction by fire or other incident on land within or outside the County, including any action taken by the Department on a false alarm, the Fire Chief or County Commissioner may in respect of any costs incurred by the Department in taking such action, if the Fire Chief or County Commissioner feels that proper grounds for doing so exist, charge any costs so incurred to the owner or occupant of the land in respect of which the action was taken.

8.5 The costs and fees to be charged by the Department for services rendered pursuant to this By-law shall be determined by Council by resolution from time to time.

In the event that the owner or occupant of any land within the County shall feel aggrieved by any action taken by the Fire Chief or County Commissioner pursuant to Section 8.4, such owner or occupant shall have a period of thirty (30) days from the date of mailing of notice of the action taken by the Fire Chief or County Commissioner to appeal to Council the action taken by the Fire Chief or County Commissioner and the decision of Council on any such appeal shall be final and binding upon the owner or occupant of the land and shall not be subject to any further appeal.

In respect of land within the County, in the event that the amount levied by the Fire Chief or County Commissioner shall not be paid within sixty (60) days after the mailing of a notice by the Fire Chief or County Commissioner pursuant to Section 8.4, or in the event of an appeal, within sixty (60) days of the date of mailing of the decision of Council on the appeal, the amount levied and unpaid shall be charged against the land upon which the fire was started as taxes due and owing in respect of that land.

8.6 In respect of any costs or fees levied or charged under this Bylaw:

- a. Parkland County may recover such costs or fees as an amount due and owing to Parkland County pursuant to Section 552 of the *Municipal Government Act* R.S.A. 2000, Chapter M-26; and
- b. In default of payment, where permitted by the *Municipal Government Act* R.S.A. 2000, Chapter M-26 Section 533(1)(c), add the amounts due to the tax roll of the land in question.

SECTION 9 SEVERABILITY

9.1 Should any section or part of this Bylaw be found to have been improperly enacted, for any reason, then such section or part shall be regarded as being severable from the rest of the Bylaw and the Bylaw remaining after such

severance shall be effective and enforceable as if the section found to be improperly enacted had not been enacted as part of this Bylaw.

SECTION 10

And upon third reading thereof, Bylaw No. 8-94 is hereby rescinded.

READ a first time this 10th day of June, A.D. 2003.

READ a second time this 10th day of June, A.D. 2003.

READ a third time and finally passed by the Councilors present this 10th day of June, A.D. 2003.

MAYOR

MANAGER, LEGISLATIVE AND ADMINISTRATIVE
SERVICES

SCHEDULE "A"

WHEREAS, under the provisions of Section 44 of the Provincial Offences Procedure Act, being Chapter P-34 of the Revised Statutes of Alberta, 2000, and amendments thereto and under the provisions of Section 7 of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta, 2000, and amendments thereto, the Council of a municipality may by By-law provide for the payment of violation tickets or summons out of court.

A notice of form (commonly called a violation ticket) may be issued by a Special Constable to any person charged with a breach of any of the provisions of this By-law and the hereto-mentioned Acts shall apply in regards to the payment.

		First Offence	Second Offence	Subsequent Offence
Section 7.1	Light an Outdoor Fire or a Structure Fire without a subsisting Fire Permit if required under this Bylaw or the <i>Forest and Prairie Protection Act</i> (supra) or both.	100.00	500.00	1,000.00
Section 7.2	Allow an Outdoor Fire or a Structure Fire to be lit upon land that is owned or occupied by him or under his control except when such fire is permitted pursuant to this Bylaw.	100.00	500.00	1,000.00
Section 7.4	Ignite any fire, either directly or indirectly, personally or through an agent, servant or employee, and let it become a Running Fire on any land not his own property, or allow a Running Fire to pass from his own property to the property of another.	500.00	5,000.00	10,000.00
Section 7.5	Light an Outdoor Fire, a Structure Fire, an Incinerator Fire or Smudge Fire without first taking sufficient precaution to ensure that the fire can be kept under control at all times.	250.00	2,000.00	10,000.00
Section 7.6	Place prohibited debris within a fire	250.00	5,000.00	10,000.00
Section 7.7	Light an Outdoor Fire, a Structure Fire, Incinerator Fire, or barbecue/fire pit fire during a municipal or provincial fire ban pursuant to the <i>Forest and Prairie Protection Act</i> (supra).	1,000.00	5,000.00	10,000.00
Section 7.8	Light an Outdoor Fire, a Structure Fire, Incinerator Fire, or a barbecue/fire pit fire during a municipal or provincial fire ban pursuant to the <i>Forest and Prairie Protection Act</i> (supra) and let it become a Running Fire on any land not his own property, or allow a Running Fire to pass from his own property to the property of another.	5,000.00	7,500.00	10,000.00

Section 7.9	Obstruct a municipal constable, Fire Guardian or member of the Fire Chief's Office in the performance of their duties pursuant to this Bylaw or the <i>Forest and Prairie Protection Act</i> (supra).	1,000.00	5,000.00	10,000.00
Section 7.10	Disclose false information when applying for a Fire Permit	250.00	1,000.00	2,000.00
Section 7.11	Allow any fire to give off a dense smoke or offensive odour in a manner which creates a risk to public safety	250.00	2,000.00	10,000.00