

BYLAW 2236/PS/05

**BEING A BYLAW OF THE TOWN OF STONY PLAIN IN THE PROVINCE OF ALBERTA TO PROHIBIT AND CONTROL OPEN BURNING WITHIN THE CORPORATE LIMITS OF THE TOWN OF STONY PLAIN**

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WHEREAS pursuant to Section 7, Municipal Government Act, being Chapter M-26, Revised Statutes of Alberta 2000 and amendments thereto, a council may pass a bylaw for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

WHEREAS the Council of the Town of Stony Plain deems it proper to pass a bylaw to control and prohibit burning within the Town of Stony Plain; and

NOW THEREFORE, the Council of the Town of Stony Plain in the Province of Alberta, pursuant to authority conferred upon it by the Municipal Government Act 2000 enacts as follows:

1. This bylaw may be cited as *The Open Burning Bylaw*.
2. In this bylaw:
  - (a) "Council" means the Council of the Town of Stony Plain
  - (b) "Fire Chief" means the member appointed by Council as head of the Fire Department;
  - (c) "Fire Permit" means a permit issued and in a format prescribed by the Fire Chief, his designate or Bylaw Enforcement Officer allowing for the setting of outdoor fires, structure fires or incinerator fires within the Town;
  - (d) "Fire Pit" means a permanently affixed outdoor fire receptacle.
  - (e) "Fireplace" means an enclosed and permanently affixed outdoor fire receptacle which incorporates a permanently affixed chimney or flue, and is constructed of brick, rock or other masonry;
  - (f) "Non-Burnable Debris" means any flammable debris or waste material, and includes but is not restricted to:
    - i) straw, stubble, grass and/or weeds
    - ii) leaves and/or tree prunings
    - iii) solid waste from tree harvesting and/or logging operations and/or land clearing
    - iv) new and/or used utility poles and/or railroad ties
    - v) wooden and/or waste material from the construction and/or demolition of buildings and/or construction sites
    - vi) animal cadavers and/or manure
    - vii) pathological wastes
    - viii) garbage or refuse from commercial, industrial and/or municipal operations
    - ix) combustible material in vehicle body, tires and/or oil for combustion engines
    - x) rubber, plastic or anything containing and/or coated with rubber, plastics, styrofoam or similar substances;
  - (g) "Open Burning" means any fire of any kind whatsoever in the open air with the exception of:
    - i) natural gas, propane and/or briquette barbecues
    - ii) campstoves affixed above ground level and located in a park
    - iii) coleman-type campstoves, kerosene or propane fired;
  - (h) "Open Fire" means a fire that is not confined within a noncombustible container or structure;
  - (i) "Outdoor Fire" means any fire not contained within a building or structure and shall include fires involving humus soil, piles of coal, farm produce, waste, bush, grass, feed, 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 ground;
  - (j) "Peace Officer" means a member of the RCMP, Bylaw Enforcement Officer or Special Constable as appointed by Council;
  - (k) "Portable Fire Receptacle" means an outdoor fire receptacle that is not permanently affixed;

- (l) "Recreational Fire" means a confined outdoor fire in a fire pit, fireplace or portable fire receptacle for the purpose of cooking, obtaining warmth or viewing for pleasure. A Recreational Fire may only be fuelled with seasoned wood (not to exceed the equivalent of 15 liters in size), charcoal, natural gas or propane.
- (m) "Running Fire" means any fire burning without being under the proper control of any person;
- (n) "Smudge Fire" means a fire confined within a noncombustible structure or container that is set on land of 2 acres or more in an area for the purpose of protecting livestock from insects;
- (o) "Structure Fire" means any 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;
- (p) "Town" means the Town of Stony Plain and, where the context requires, means the area contained within the corporate boundaries of the said municipality.

### 3. Powers

- (a) The Fire Chief, his designate and/or Bylaw Enforcement Officer, may:
  - i) issue a fire permit to a person 18 years or older;
  - ii) issue a fire permit in respect of any land within the municipal boundaries of the Town of Stony Plain;
  - iii) issue a fire permit unconditionally or impose conditions upon the applicant which he considers appropriate;
  - iv) 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;
  - v) direct the operations in respect of any fire permit issued.

### 4. Recreational Fires

The following regulations and specifications apply to Recreational Fires:

- (a) Except as provided in Section 4(k), no permit is required to ignite, construct or otherwise create a recreational fire by or with permission of the property owner.
- (b) A "fire pit" used outdoors for the purpose of cooking, obtaining warmth or viewing for pleasure must meet the following specifications:
  - (i) a safe clearance of approximately 3 metres, measured from the nearest fire pit or edge is maintained from buildings, property lines, or other combustible material;
  - (ii) fire pit height must not exceed .6 metres measured from the surrounding grade to the top of the fire pit opening;
  - (iii) fire pit is to be constructed of noncombustible materials such as bricks, concrete blocks, heavy gauge metal, or other non-combustible materials acceptable to the Fire Chief;
  - (iv) a spark arrestor mesh screen with openings no larger than 1.25 cm and constructed of expanded metal or other non-combustible material is to be used to cover a fire pit opening in a manner sufficient to contain and reduce the hazards of airborne sparks;
  - (v) a fire pit must not exceed 1.0 metre in diameter;
  - (vi) the height of flames in a fire pit cannot exceed 1.0 metre;
- (c) A "fireplace" used outdoors for the purpose of cooking, obtaining warmth or viewing for pleasure must meet the following specifications:
  - (i) a minimum of 1.0 metre clearance measured from the nearest fireplace edge is maintained from buildings, property lines, or other combustible material;

- (ii) a fireplace is constructed of materials, such as bricks or rocks, that are heat and flame resistant;
  - (iii) the fireplace is equipped with a chimney that is not less than 2.5 metres in height when measured from the base of the fire burning area;
  - (iv) the fireplace chimney is equipped with a regulation screen designed to contain and reduce the hazards of airborne sparks;
  - (v) the base of the fire burning area is not less than .3 metres above the surrounding grade; and,
  - (vi) the fire chamber does not exceed 1.25 metres in width, and is at least .4 metres but not more than .6 metres in depth.
- (d) A "Portable Fire Receptacle" used outdoors for the purpose of cooking, obtaining warmth or viewing for pleasure must meet the following specifications:
- (i) Recreational fires may be burnt in a portable fire receptacle in a residential back yard with the same specifications for a "fire pit" applying to a portable fire receptacle with the exception that the portable fire receptacle must be situated at least two metres from any combustible materials.
  - (ii) Recreational fires may be burnt in a portable fire receptacle on a wooden deck or patio as long as non-combustible material such as brick or stone is placed between the portable fire receptacle and the deck or patio. The portable must also be situated at least two metres from any combustible materials.
- (e) Recreational fires may be conducted between the hours of 12:00 NOON and 1:00 AM only.
- (f) A garden hose, extinguisher or other method of extinguishing a fire must be immediately available for use.
- (g) Recreational fires must not be set in windy conditions of greater than 20KM per hour conducive to creating a running fire or a nuisance to another person.
- (h) If smoke from an open-air fire causes an unreasonable interference with the use and enjoyment of another person's property, the fire must be extinguished immediately.
- (i) Recreational fires must be supervised by a responsible adult person over 18 years of age at all times.
- (j) Once the intended use is completed, Recreation fires must be totally extinguished.
- (k) No person shall ignite, construct or create a recreational fire in a park unless the recreational fire occurs at a location so designated within the park or in a device or structure constructed for that purpose in the park.
5. Control of Fire Hazards
- (a) If the Peace Officer or the Fire Chief finds within its municipal boundaries on privately owned land or occupied public land conditions that, in its opinion, constitute a fire hazard, it may order the owner or the person in control of the land on which the fire hazard exists to reduce or remove the hazard within a fixed time and in a manner prescribed by Council.
  - (b) When the Peace Officer or the Fire Chief finds that the order it made pursuant to Section 5(a) has not been carried out, it may enter on the land with any equipment and any person it considers necessary and may perform the work required to eliminate or reduce the fire hazard.
6. Recovery of Costs
- (a) Where the Peace Officer or the Fire Chief, acting in accordance with its operating policies, has taken any action whatsoever for the purpose of extinguishing a fire or responding to a fire call or incident within or outside the Town or for the purpose of preserving life or property from injury or destruction by fire or other incident on land within or outside the Town, the Peace Officer or the Fire Chief may, in respect of any costs incurred by the Town if the Peace Officer or the Fire Chief deems the cost of such actions to be extraordinary, charge all or a portion of said costs so incurred to the owner or occupant of the land in respect of which the action was taken.

- (b) Notwithstanding the authority granted to the Peace Officer or the Fire Chief in Section 6(a) above, the Peace Officer or the Fire Chief shall not charge the costs of fighting an accidental fire affecting the primary residence or commercial structure, including the ancillary structures of the aforementioned, on any property in Town. This prohibition shall not preclude the charging of a portion of the costs of fighting a grass or ground fire where a primary or ancillary structure is affected.
- (c) In the event that the owner or occupant of any land within or outside the Town shall feel aggrieved by any action taken by the Peace Officer or the Fire Chief pursuant to Section 6(a) of the bylaw, such owner or occupant shall have a period of 30 days from the date of mailing of notice of the action taken by the Peace Officer or the Fire Chief, to appeal to Council against the action taken. The decision of Council on any such appeal shall be final and binding upon the owner or occupant of the land and not subject to any further appeal.
- (d) In respect of the cost or fee described in Section 6(a):
  - i) in the case of action taken by the Peace Officer or Fire Chief in respect of land outside the Town, the Town may recover such cost or fee as a debt due and owing to the Town; or
  - ii) in the case of action taken by the Peace Officer or the Fire Chief in respect of land within the Town where the cost or fee is not paid upon demand by the Town, then in default of payment, such cost or fee may be charged against the land as taxes due and owing in respect of that land.

7. Offences

- (a) No person shall light an outdoor fire, a structure fire or an incinerator fire unless he is the holder of a subsisting fire permit if required under this bylaw.
- (b) No person shall permit an outdoor fire, a structure fire or an incinerator 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.
- (c) When a fire is lit under the circumstances prohibited by Section 7(a) or 7(b), the owner or occupier of the land or the person having control of the land upon which such fire is lit shall:
  - i) extinguish the fire immediately, or
  - ii) where he is unable to extinguish the fire immediately, report the fire to the Fire Department.
- (d) No person shall, either directly or indirectly, personally or through an agent, servant or employee, kindle a fire and let it become a running fire on any land not his own property to the property of another.
- (e) No person shall light a permitted outdoor fire, a structure fire or an incinerator fire without first taking sufficient precaution to ensure that the fire can be kept under control at all times.
- (f) No person, persons or corporation shall light, ignite, start or cause to be made an open fire of nonburnable debris, or cause or permit open burning unless it is in a gas fired incinerator for which a permit to construct and a license to operate have been obtained in accordance with federal and provincial legislation.
- (g) No person or persons shall, either directly or indirectly, cause to be reported a false alarm.

8. Penalties

- (a) Any person who fails to hold a subsisting fire permit when one is required under this bylaw is guilty of an offence and is liable to a fine of \$250.00 on summary conviction.
- (b) Any person who contravenes any section of this bylaw is guilty of an offence is liable to a fine of \$200.00 on summary conviction.

- (c) Any Peace Officer may enforce the provisions of this bylaw and, where that Peace Officer has reasonable grounds to believe that a person has committed a breach of any of the provisions of this bylaw, he may issue and serve upon such person a violation ticket pursuant to Part 2 of the Provincial Offences Procedure Act.

9. Bylaw 2032/PS/97 is hereby repealed.

10. This bylaw shall come into force and take effect upon the date of third reading and signing in accordance with Section 7(a), Municipal Government Act, Revised Statutes of Alberta RSA 2000.

Read a first time this 27<sup>th</sup> day of June 2005

Read a second time this 11<sup>th</sup> day July 2005

Read a third time this 11<sup>th</sup> day July 2005

  
Deputy Mayor Pat Hansard  
Kim Neill  
Acting Town Manager