

## TOWN OF BASHAW

### BY-LAW 728-2010

**BY-LAW NO 728-2010 BEING A BY-LAW OF THE TOWN OF BASHAW, IN THE PROVINCE OF ALBERTA TO REGULATE VARIOUS RECREATIONAL AND OPEN BURNING PRACTICES**

**Pursuant to the provisions of the Municipal Government Act, Chapter M-26, RSA 2000, and amendments thereto:**

**WHEREAS**

Council of the Town of Bashaw may regulate fire pits, outdoor fireplaces and stationary barbecues having regard for the preservation of life and property and the protection of persons from injury or destruction by fire.

**NOW THEREFORE**

COUNCIL OF THE TOWN OF BASHAW, IN THE PROVINCE OF ALBERTA duly assembled enacts as follows:

**TITLE**

1 This By-law may be sited as the "Fire Pit/Permit Bylaw"

**DEFINITIONS**

2 In this bylaw:

- (a) "Authority having jurisdiction or Authority" means:
  - (i) The Fire Chief/Manager of the Emergency Services Department of The Town, hereinafter referred to as the Fire Chief;
  - (ii) Any persons designated by the Fire Chief as a Fire Marshall or Fire Prevention Officer;
  - (iii) Such other employees of the Emergency Services Department of The Town as the Fire Chief may appoint to enforce this bylaw.
- (b) "Building Waste" means any clean scrap wood produced in the process of constructing, altering or repairing a building;
- (b) "Garden Waste" means shrubbery and tree prunings, weeds, grass trimmings, roots, tree stumps, turf and similar vegetation;
- (d) "Hazard" means a risk of fire or damage to property and/or person(s) which may be caused by the burning of any waste and includes any nuisance;
- (e) "Nuisance" means causing smoke which unreasonably affects the comfort or convenience of an individual and includes interference with use and enjoyment of property;
- (f) "Fire Pit" includes a permanently affixed outdoor fire receptacle;
- (g) "Officer" includes bylaw enforcement officer or peace officer;
- (h) "Outdoor Fire Place" means an enclosed and permanently affixed outdoor fire receptacle which incorporates a permanently affixed chimney or flue and is constructed of brick, rock, other masonry material or metal and has not been constructed as part of a building;
- (i) "Portable Fire Receptacle" means an outdoor fire receptacle which is not permanently affixed;
- (j) "Permit" means a fire pit permit or outdoor fireplace permit as referred to in this bylaw and in the form attached as Schedule "A";
- (k) "Waste" includes:
  - (i) any rubbish, refuse, garbage, paper, packaging, pallets, containers, bottles, cans, rags, clothing, petroleum products, manure, human or animal excrement, sewage or the whole or part of an animal carcass; or
  - (ii) the whole or a part of any article, raw or processed material, vehicle or other machinery that is disposed of;
  - (iii) animal or vegetable matter, including materials resulting from the handling, preparation, cooking, consumption and storage of food;
  - (iv) building waste;

- (iv) garden waste;
- (vi) any thing that is designated as waste in the regulations under the *Environmental Protection & Enhancement Act, (1992) S.A., Chapter E 13.3.*
- (l) "fire" includes any combustion whether or not any flame is present or visible.

### 3 FIRE PITS, OUTDOOR FIREPLACES, PORTABLE FIRE RECEPTACLE AND BARBECUES

- (a) Permits shall be required for outdoor fire pits, outdoor fireplaces, portable fire receptacles and stationery barbeques
- (b) Only one (1) fire pit, outdoor fireplace, portable fire receptacle and stationery barbeque is allowed on a parcel of land.
- (c) No fire permits are required for portable barbeques which are operated by liquefied petroleum gas (LPG), natural gas or compressed briquettes or charcoal when used for the purpose of cooking or obtaining warmth, provided the appliances for cooking or obtaining warmth are used on the property of the resident or in a public area at a location approved by the authority having jurisdiction.
- (d) Any person may burn clean, dry, untreated wood or charcoal in an approved fire pit, outdoor fire place portable fire receptacle and barbecue complying with Section 4 or 5 for the purpose of cooking or obtaining warmth:
  - (a) on property owned or occupied by such person; or
  - (b) at a location approved by the Authority upon lands to which members of the public have access.
- (e) The Authority may revoke the fire pit permit if the permit holder violates this bylaw or when in its opinion, the continuation of burning would constitute a hazard or nuisance to persons or other properties.

### 4 Any person who burns allowable material in a fire pit, outdoor fire place, portable fire receptacle or barbecue shall:

- (a) remain in charge of or keep a competent person over the age of eighteen (18) in charge of the fire ;
- (b) not permit the flames to exceed 1 meter in height;
- (c) ensure that the fire does not:
  - (i) create a risk of fire or damage to persons or property;
  - (ii) create a nuisance, which is offensive to any other person.
- (d) have a means of extinguishing the fire on hand at all times while the fire is burning;
- (e) ensure that the fire is extinguished leaving only cold ashes before supervision of the fire ends.
- (f) not ignite fire pits, outdoor fireplaces, portable fire receptacles, chimineas and stationery barbeques between the hours of 1:00 a.m. and 8:00 a.m. Violation of these hours are subject to a specified fine as set out in 10(5) of this bylaw.

### 5 Fire pits, outdoor fireplaces, barbecue pits, portable fire receptacles or structures must meet the following requirements:

- (a) A minimum of 3.0 metres (10 feet) clearance shall be maintained from buildings, property lines, and combustible materials or as approved by the Authority having jurisdiction.
- (b) Gas lines and utilities must be 1 metre or more away from fire pit.
- (c) Installations shall have a surface or cooking area not exceeding 1 meter(3.3 feet) at its widest point, enclosed sides must be a minimum of 30 centimetres (12 inches) above ground and not exceed 46 centimetres (18 inches) above ground level, and shall be constructed of bricks, concrete blocks, heavy gauge metal, or

other suitable non-combustible components and shall be constructed on a non-combustible base.

- (d) A spark arrestor mesh screen of 1.30 centimetres (.50 inch) expanded metal (or equivalent) to contain sparks shall be provided over the fire at all times.
  - (e) Only clean fuel shall be used (clean, dry wood or charcoal). Refuse or waste matter shall not be burned.
  - (f) Deposit, discard or leave any burning matter or substance in a place where it might ignite other matter and result in a fire.
- 6 All fire pits, outdoor fireplaces, portable fire receptacles and barbeques in existence prior to the coming into effect of this bylaw must conform to Sections 3, 4 and 5 hereof.

### **EXTINGUISHMENT OF FIRES**

- 7 (1) No Person shall build, ignite or allow any kind of fire when a complete ban on burning has been declared by the Fire Chief or his designate and is in effect. Any person who ignites or allows any kind of fire during a fire ban is guilty of an offence and is liable to a fine as set out in Section 10(6) of this bylaw.
- 8 (1) A member of the Emergency Services Department or an Officer may direct a Person to extinguish any fire when in their opinion the fire creates a hazard, nuisance or in the case of when a fire ban is in place.
- (2) A Person who fails to comply with the direction of a member of the Emergency Services Department or an Officer to extinguish a fire on request is guilty of an offence as specified in Section 10(7) of this bylaw and the member of the Emergency Services Department or the Officer, as the case may be, may extinguish the fire.

### **NON-CONFORMING FIRE PITS, OUTDOOR FIREPLACES & STATIONERY BARBEQUES**

- 9 A permanent fire pit, outdoor fireplace, or stationery barbeque that does not conform to bylaw 728-2010 and requires substantial renovations shall, at the discretion of the inspector be grandfathered in and allowed to remain in place under the conditions that:
- all precautions be taken to ensure that permanent non-conforming fire pits, outdoor fireplaces and stationery barbeques conform as much as possible to the requirements of Bylaw 728-2010;
  - residents with authorized grandfathered fire pits, outdoor fireplaces or stationery barbeques accept all consequences that may result caused by a non-conforming fire pit, outdoor fireplace or stationery barbeque if any fire or damages should occur;
  - the Town shall not be liable for any damages caused by non-conforming fire pits, outdoor fireplaces or stationery barbeques;
  - any new fire pit, outdoor fireplace or stationery barbeque constructed to replace a grandfathered fire pit, shall be built to conform with bylaw 728-2010.

### **PENALTIES**

- 10 1. The authority having jurisdiction, the Town bylaw enforcement officer and any member of the Royal Canadian Mounted Police (RCMP) are hereby authorized to enforce the provisions of this bylaw and to issue offence tickets to any person whom they reasonably believe has contravened the provisions of this bylaw.
2. Any person who contravenes any of the provisions of this bylaw is guilty of an offence and is liable to a specified penalty of \$200.00.
3. Any person who is found guilty of the same offence a second time within a 24 month period, is guilty of a second offence and is liable to a specified penalty of \$500.00.
4. Any person who, being guilty of a third breach of this bylaw, is guilty of an offence and is liable to a specified penalty of the removal of the fire pit from the property and

burning privileges suspended, for a time period to be determined by the Council of the Town of Bashaw.

5. Any person who ignites or allows any kind of fire in any fire pit, outdoor fireplace, portable fire receptacle or stationery barbeque during the hours of 1:00 a.m. and 8:00 a.m. is liable to a fine in the amount of \$300.00.

6. Any person who ignites or allows any kind of fire in any fire pit, outdoor fireplace, portable fire receptacle or stationery barbeque during a fire ban is guilty of an offence and liable to a fine in the amount of \$1,000.00.

7. Failing to comply with the direction of a member of the Emergency Services Department or an Officer to extinguish a fire in any fire pit, outdoor fireplace, portable fire receptacle or stationery barbeque because of a fire ban is guilty of an offence and liable to a fine in the amount of \$5,000.00.

8. Where a contravention of the bylaw is of a continuing nature, further violation tickets may be issued by the Enforcement Officer, provided that no more than one violation ticket shall be issued for each day that the contravention continues.

9. If the penalty specified on a violation ticket is not paid within the prescribed time period, then a Peace Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part II of the Provincial Offences Procedures Act, S.A., 1989, c.P-21.5, as amended.

10. Nothing in this bylaw shall prevent an Enforcement Officer from immediately issuing a violation ticket for the mandatory court appearance of any person who contravenes any provision of this bylaw.

**LIABILITY**

11 1. A Fire Department member charged with the enforcement of this bylaw, acting in good faith and without malice for the Town in the discharge of the Member’s duties, shall not hereby render the Member personally liable and the member is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of the Member’s duties.

2. Any suit brought against a Fire Department Member, because of an act or omission performed by the Member in the enforcement of any provision of this bylaw, shall be defended by the Town until final determination of the proceedings. Any Member will be reimbursed or indemnified against any loss or expense which the Member may incur as a result of any inquiry relating to, or any action brought or judgment obtained arising out of the Member’s duties. The Town shall not be required to pay any fines or penalties levied or imposed against any Member by reason of any conviction or charge for any violation of any statute or Bylaw.

**FEEES**

12 Permit Fees \$50.00

13 Severability of Bylaw Provisions

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

**SCHEDULES**

14 That Schedules “A” Recreational Fire Pit Permit and Schedule “B” Information Bulletin shall form part of this bylaw and shall be amended from time to time by resolution in Council.

**EFFECTIVE DATE OF BYLAW**

15 This bylaw shall come into effect on the final date of the passing and signing thereof.

By-Law 679-2004 is hereby repealed.

<p><b>READ</b> a First time this ___th day of _____, A.D. 2010</p>	<p>_____</p> <p>MAYOR</p> <p>_____</p> <p>TOWN MANAGER</p>
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<p><b>READ</b> a Second time this ___th day of _____, A.D. 2010</p>	<p>_____</p> <p>MAYOR</p> <p>_____</p> <p>TOWN MANAGER</p>
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<p>Unanimous consent for third reading given this ___th day of _____, A.D. 2010</p>	<p>_____</p> <p>MAYOR</p> <p>_____</p> <p>TOWN MANAGER</p>
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<p><b>READ</b> a Third time and finally passed this ___th day of _____, A.D. 2010</p>	<p>_____</p> <p>MAYOR</p> <p>_____</p> <p>TOWN MANAGER</p>
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