

## CYPRESS COUNTY

### BYLAW 2008/14

A Bylaw of Cypress County, in the Province of Alberta, for the issuance and enforcement of fire permits.

WHEREAS the Municipal Government Act being Chapter M-26 of the Revised Statutes of Alberta 2000, and amendments thereto, provides that a Council of a Municipality may pass bylaws for the safety, health and welfare of people and the protection of people and property, and for services provided by or on behalf of the municipality;

AND WHEREAS the Forest and Prairie Protection Act being Chapter F-19 of the Revised Statutes of Alberta 2000, and amendments thereto, provides that the Council of the County is responsible for controlling all fires within the municipal boundaries;

AND WHEREAS the Council of Cypress County wishes to regulate the use and setting of fires;

NOW THEREFORE the Council of Cypress County, in the Province of Alberta, duly assembled, ENACTS AS FOLLOWS:

#### **SHORT TITLE**

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

#### **DEFINITIONS**

2.1 In this bylaw:

- a) “Apparatus” shall mean any vehicle, machinery, device, equipment or material used for Firefighting, as well as any vehicle used for transporting firefighters and/or supplies.
- b) “Contained Fire” means a Fire which is totally confined within a non-combustible structure or container and which is vented in such a manner as to preclude the escape of combustible materials such as ash.
- c) “Council” shall mean the Council of Cypress County.
- d) “County” shall mean Cypress County.

- e) “Department” shall mean the Emergency Services Department of Cypress County and all district fire departments.
- f) “Deputy” shall mean the Deputy Chief of a District Fire Department.
- g) “District Fire Chief” shall mean the chief of a District Fire Department.
- h) “District Fire Departments” shall mean any fire department providing coverage to a designated area in the County through an agreement with the County, or any fire department operated by the County.
- i) “Emergency Services Chief” shall mean the Emergency Services Chief for Cypress County.
- j) “Enforcement Officer” means a member of the Royal Canadian Mounted Police, a Peace Officer, or a person designated by Cypress County to enforce this Bylaw.
- k) “Equipment” shall mean any tools, contrivances, devices or materials used by the department to combat any incident or emergency.
- l) “Fire” means any combustible material in a state of combustion.
- m) “Fire Guardian” shall mean a person named or appointed as Fire Guardian pursuant to the Forest and Prairie Protection Act (supra).
- n) “Fire Hazard” means any condition, circumstance or event wherein the possibility of Fire is increased.
- o) “Fire Permit” means a permit issued by a Fire Guardian pursuant to this Bylaw, on the form adopted by the County from time to time.
- p) “Fire Protection” shall mean all aspects of fire safety, including but not limited to fire prevention, firefighting or suppression, pre-fire planning, fire inspection, public education and information, training or other staff development and advising.
- q) “Incident” shall mean a fire or situation where an explosion is imminent or any other situation where there is danger or a possible danger to life or property or both and to which the Department has responded.
- r) “Incinerator Fire” means a Fire that is contained within a non-combustible structure or container that complies with the requirements of the Safety Codes Act.
- s) “Member” shall mean any member of a Department.

- t) “Outdoor Fire” means any Fire not contained within a building or structure and shall include Fire involving humus soil, piles of coal, farm produce, waste, bush, grass seed, 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 frozen ground.
- u) “Property” shall mean any real or personal Property, which without limiting the generality of the foregoing includes land and structures.
- v) “Recreational Fire” means a Fire confined to a non-combustible container, which is set for the purpose of cooking, obtaining warmth or viewing for pleasure. Such Fire may only be fuelled with seasoned wood, charcoal, natural gas or propane. (see Schedule C).
- w) “Running Fire” shall mean a fire burning without being under the proper control of any person.
- x) “Structure Fire” shall mean 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.
- y) “Violation Tag” shall mean an infraction notice issued by the Enforcement Officer for the purpose of informing someone of an infraction under this bylaw.
- z) “Violation Ticket” shall mean a ticket issued for an offence committed against any of the provisions of this bylaw and shall be in the form prescribed by the Provincial Offences Procedure Act being Chapter P-34 of the Revised Statutes of Alberta 2000, and amendments thereto.
- aa) “Warning Tag” shall mean a notice which may be issued by an Enforcement Officer or Fire Guardian to warn someone of an infraction under this bylaw.

## **FIRE GUARDIANS**

- 3.1 Each year before the first day of March, the Council shall appoint a sufficient number of Fire Guardians to enforce the provisions of the Forest and Prairie Protection Act and this bylaw within the boundaries of the County.
- 3.2 There shall be a minimum of one (1) Fire Guardian appointed for each fire protection area.
- 3.3 Council may limit the authority and power of the Fire Guardians through resolution.

## **POWERS OF THE FIRE GUARDIANS**

- 4.1 Unless otherwise limited by the Council, each Fire Guardian shall have the authority and power to:
- a) issue a Fire Permit with respect of any land within the County;
  - b) require any able-bodied adult person, who is not exempt by the regulations of the Forest and Prairie Protection Act to assist in extinguishing Fires and to assist in the prevention or spread thereof.
  - c) commandeer and authorize payment for the possession or use of any equipment for the purposes of fighting a fire;
  - d) enter a closed area under the Forest and Prairie Protection Act without a Permit or written permission of a forest officer, subject only to the regulations of the Forest and Prairie Protection Act;
  - e) obtain from every person found on public land, leaving or entering public land that person's name, address and an account of his or her activities he or she proposes to carry out and the route he or she intends to follow on the public land;
  - f) without a warrant enter on any land and premises except a private dwelling house, for the purpose of discharging his or her duties under this Bylaw or the Forest and Prairie Protection Act;
  - g) without a warrant enter any private dwelling house which is on Fire and proceed to extinguish the Fire or to prevent the spread thereof;
  - h) perform work relating to the extinguishing or controlling the Fire or the operations to preserve life and property and enter onto any property for the purpose of extinguishing or controlling the Fire;
  - i) prevent interference with the efforts of persons engaged in the extinguishing of Fires or preventing the spread thereof by regulating the conduct of the public at or in the vicinity of the Fire.

## **FIRE PERMITS**

- 5.1 In addition to any Fire Permit required under the Forest and Prairie Protection Act, an additional Fire Permit shall be required under this Bylaw.

- 5.2 Notwithstanding Clause 5.1 of this section, any Fire Permit issued pursuant to the Forest and Prairie Protection Act during the fire season, 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 any fire other than recreational or incinerator fires, shall be made to a Fire Guardian and the Fire Guardian shall consider the application and having done so may, in his absolute discretion, issue or deny the applicant a Fire Permit.
- 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 as shall be determined and set by the Fire Guardian issuing the Permit and the Fire Permit shall have endorsed thereon the period of time for which the said permit is valid. The Fire Guardian may extend the period of time for which the Fire Permit is valid if the Fire Permit has not expired
- 5.6 The Fire Guardian 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/her Fire Permit.
- 5.7 Each Fire Permit shall contain the following information:
  - a) the name and address of the applicant.
  - b) the legal description 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 for which the Fire Permit is valid.
  - e) the precautions, if any, that will be taken by the applicant to ensure that the proposed Fire remains under his or her control.
  - f) the signature of the applicant.
  - g) the signature of the Fire Guardian issuing the Fire Permit.
- 5.8 A Fire Guardian may issue a Fire Permit even if all of the above information has not been provided. Further, a Fire Guardian may require additional information prior to issuing a Fire Permit.
- 5.9 A Fire Permit is not transferable from one individual to another, nor from one parcel of land to another.
- 5.10 A Cypress County Fire Permit does not allow for the setting off of fireworks and fire crackers.

## **RECOVERY OF FIREFIGHTING COSTS**

- 6.1 Where a 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 any other incident on land within or outside of the county, including any action taken by the Department on a false alarm, the Emergency Services Chief may in respect of any costs incurred by the Department in taking such action, if the Emergency Services Chief in consultation with the Chief Administrative Officer or his designate feels that proper grounds for doing so exist:
- (a) charge any costs so incurred to the owner or occupant of the land in respect of which the action was taken.
  - (b) charge any costs so incurred to any other person who causes or contributes to the fire.
- 6.2 The costs and fees to be charged by the Department for services rendered pursuant to this Bylaw shall be determined by Council by resolution from time to time, as per Schedule A.
- 6.3 In the event that the owner or occupant of any land within the County shall feel aggrieved by any action taken by the Emergency Services Chief pursuant to Section 6.1, such owner or occupant shall have a period of thirty (30) days from the date of mailing notice of the action taken by the Emergency Services Chief to appeal to Council the action taken by the Emergency Services Chief 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.
- 6.4 In the respect of land within the County, in the event that the amount levied by the Emergency Services Chief shall be not paid within sixty (60) days after the mailing of a notice by the Emergency Services Chief pursuant to Section 6.1, 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 to that land.
- 6.5 For those instances where the costs of fire services may not be recovered from the attachment of fees to the taxes, the County may upon the recommendation of the Chief Administrative Officer or his designate, pursue payment through any other means it deems necessary, including civil action.

## OFFENCES

### 7.1 No person shall:

- a) light any fire unless:
  - (i) that person is the holder of a subsisting Fire Permit;
  - (ii) the Fire is an Incinerator Fire;
  - (iii) the Fire has been set by the Department for the purpose of training Department members;
  - (iv) the Fire is a Recreational Fire;
  - (v) the Fire is a controlled burn in a County waste transfer site set or directed to be set by the County;
- b) permit any fire to be lit upon land that is owned or occupied by that person, or under that person's control except when such a Fire is allowed under this Bylaw;

### 7.2 No person shall:

- a) light a Fire when the conditions are conducive to creating a Running Fire;
- b) fail to take reasonable steps to control a Fire for the purpose of preventing it from becoming a Running Fire or from spreading onto property other than his or her own;
- c) deposit, discard or leave any burning matter or substance where it might ignite other materials and cause a Fire;
- d) conduct any activity that involves the use of Fire that might reasonably be expected to cause a Fire unless that person exercises reasonable care to prevent the Fire from occurring;
- e) use a Fire to burn:
  - (i) material that will result in the production of thick black smoke.
  - (ii) herbicides, pesticides or other toxic materials or substances.
  - (iii) materials prohibited under the Air Emissions Regulation of the Environmental Protection and Enhancement Act.
- f) conduct any activity that involves the use of a Fire, where smoke from the Fire may impede visibility of the vehicular traffic on any Highway as defined in the Traffic Safety Act R.S.A. 2000 Chapter T-6;
- g) light a Fire on lands owned or controlled by the County except with the County's express written consent or if a Recreational Fire, in a fireplace or campfire pit provided by the County for that purpose;

- h) light a Fire in an area that is subject to a Fire Ban.
- 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 the 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 Department.
- 7.4 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, or allow a Running Fire to pass from his property to the property of another.
- 7.5 With the exception of Recreational Fires or Incinerator Fires (see Schedule C) no person shall conduct open burning within 15 metres of a structure.
- 7.6 No person shall allow property which he owns or occupies to become a fire hazard through either:
- (a) the accumulation of combustible materials.
  - (b) lack of maintenance to the property or the structures upon it.
  - (c) any other contravention of municipal, provincial or federal regulations.
- 7.7 No person shall:
- (a) provide false, incomplete or misleading information on or with respect to the Fire Permit application.
  - (b) interfere with the efforts of persons authorized in this Bylaw to extinguish fires or preserve life or property.
  - (c) interfere with the Department's equipment or apparatus required to extinguish fire or to preserve life and property.
  - (d) damage or destroy the Department's property.
  - (e) falsely represent himself as a Member, or wear or display any emergency services badge, cap, button, insignia or other paraphernalia for the purposes of false representation.

## **FIRE BANS**

- 8.1 From time to time as conditions dictate the County may impose a full or restricted ban upon open fires within Cypress County.
- 8.2 These bans or restrictions may be imposed by the Emergency Services Chief, Council, Chief Administrative Officer or his designate based on input from the District Fire Chiefs as to conditions in their respective areas.
- 8.3 When a fire ban is imposed the County shall post the fire ban information in the local newspaper.
- 8.4 Fire bans may be lifted or modified by the Emergency Services Chief, Council, Chief Administrative Officer or his designate based on feedback from the District Fire Chiefs.

## **PENALTIES**

- 9.1
  - (a) Where an Enforcement Officer has reasonable grounds to believe that a person has committed a breach of any of the provisions of this Bylaw, the officer may issue and serve such person with a Violation Tag, Violation Ticket or a Warning Tag.
  - (b) The violation shall be in such a form as determined by Council by resolution from time to time, as per Schedule B, and shall state the section of the Bylaw that was contravened and the amount of the penalty provided in Schedule "B" that will be accepted by Cypress County in lieu of prosecution.
  - (c) Upon production of a violation issued pursuant to Section 9.1 (a) within ten (10) days from the issuance thereof, together with the designated payment to the cashier of Cypress County, the person to whom the violation was issued shall not be liable to prosecution for the contravention in respect of which the violation was issued.
  - (d) Notwithstanding the provisions of this section, a person to whom the violation was issued may exercise his right to defend any charge of committing a contravention of any of the provisions of this Bylaw.
  - (e) Where a person who has been issued a Violation Tag has not, within ten (10) clear days of the issuance thereof, paid the specified penalty, an Enforcement Officer may then issue a Violation Ticket compelling that person to prosecution of the offence.
  - (f) Where an offence of this Bylaw continues for more than one day, an Enforcement Officer may issue a Violation Tag for each day that the offence continues.

## **SUMMARY CONVICTIONS**

- 10.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon conviction to a fine not less than one hundred (100) dollars or as otherwise specified under Schedule “B”, exclusive of costs.
- 10.2 No person found guilty of an offence pursuant to this Bylaw shall be liable to imprisonment.

## **NOTICE**

- 11.1 Any notice provided for in this Bylaw shall be in writing.
- 11.2 Service of any notice provided for in this Bylaw may be made as follows:
- a) personally upon the person to be served; or
  - b) by mailing the copy to the person to be served by registered mail to the last known post office address of the person to be served, and service shall be deemed effected at the time the copy is delivered by an official of the post office to the person to be served or to any person receiving it on his or her behalf; or
  - c) where the Property is not occupied, by mailing the notice by registered mail or certified mail to the mailing address noted on the County tax roll for the Property, and service shall be deemed effected at the time the copy is delivered by an official of the post office to the person to be served or to any person receiving it on his or her behalf; or
  - d) as directed by the Court.

## **LIABILITY**

- 12.1 The Emergency Services Chief, District Fire Chiefs, Members or Fire Guardians of Cypress County are not liable for loss or damage caused by anything said, done, omitted or to be done in the performance or intended performance of their functions, duties or powers unless the Emergency Services Chief, Member, District Fire Chief or Fire Guardian was dishonest, grossly negligent or guilty of willful misconduct.

## **SEVERABILITY**

- 13.1 Should any section or part of this Bylaw be found to have been improperly enacted or ultra vires, for any reason, then such section or part shall be regarded as severable from the rest of this Bylaw and this 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.

**APPEAL**

14.1 Any person who considers him or herself aggrieved by a written order give pursuant to this Bylaw may appeal the direction to the Council under the terms of the Municipal Government Act.

**AMENDMENTS**

15.1 Schedules “A”, “B”, and “C” can be amended by resolution of the Council from time to time as required.

Read a first time this 15<sup>th</sup> day of April, 2008.

Read a second time this 6<sup>th</sup> day of May, 2008.

Read a third time and finally passed this 6<sup>th</sup> day of May, 2008.

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Designated Officer

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**SCHEDULE A**

**FIRE PROTECTION SERVICES FEES**

- 1) Fire apparatus shall be billed for as per Cypress County Policy FP3, with the exception of mutual aid apparatus which will be billed for at the responding agency's mutual aid rate.
- 2) Any other fire related costs including but not limited to heavy equipment, water tankers, and investigation costs, may be billed at the County's cost for providing the service.

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**SCHEDULE B**

**CYPRESS COUNTY'S SPECIFIED PENALTIES  
All Penalties Are Exclusive of Costs**

Offence Under	Offence	Amount of Fine (\$)
6.1	lighting any fire other than recreational or incinerator fire without a Fire Permit.	100.00 first offence 200.00 second offence 300.00 third and subsequent offences
7.2 (b)	failure to prevent a Fire from becoming a Running Fire or from spreading onto Property other than his/her own.	500.00
7.2 (c)	deposit, discard or leave burning matter or substance where it might ignite other materials and cause a Fire.	200.00
7.2 (d)	conduct any activity that involves the use of Fire that might reasonably be expected to cause a Fire.	250.00
7.2 (e)	burning prohibited debris.	200.00
7.2 (f)	smoke from Fire impeding visibility of vehicular traffic on a Highway	300.00
7.2 (g)	light a Fire on lands owned or controlled by the County, except for a Recreational Fire in a fireplace or campfire pit provided by the County for that purpose.	250.00
7.2 (h)	light a Fire during a Fire Ban.	500.00
7.3	failure to immediately extinguish a Fire lit under the circumstances described under Section 7.2.	300.00
7.4	allow a Fire to become a Running Fire, or let a Running Fire pass from his/her Property to the Property of another.	2,500.00

7.5	conduct burning within 15 metres of a structure.	250.00
7.6	allow a Property to become a Fire Hazard.	1,000.00
7.7 (a)	provide false, incomplete or misleading information on a Fire Permit.	250.00
7.7 (b)	interfere with the efforts of persons authorized in this Bylaw to extinguish Fire or preserve life or Property.	350.00
7.7 (c)	interfere with the Department's equipment or Apparatus required to extinguish Fires or to Preserve life and Property.	350.00
7.7 (d)	damage or destroy the Department's property.	350.00
7.7 (e)	false representation as a Member.	250.00

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**SCHEDULE C**

The following parameters shall be met when defining recreational fires not requiring a Fire Permit.

- (a) a minimum of 5 metres (16.4 feet) clearance is maintained from buildings, property lines and combustible materials, or as approved by the local authority having jurisdiction;
- (b) it is constructed of bricks or concrete blocks or heavy gauge metal or other suitable non-combustible materials;
- (c) although highly recommended but not required, it has a spark arrester mesh screen of 1.27 centimetres (0.5 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 until such time as the fire has been extinguished. A fire shall be deemed to include hot ashes and smoldering embers from the fire;
- (e) only seasoned wood, charcoal briquettes, propane or natural gas fuels are used;
- (f) flame height does not exceed 100 cm (3.28 feet) above the incinerator, barbeque or fire pit.