



# COUNTY OF BARRHEAD NO. 11

## PROVINCE OF ALBERTA

### BY-LAW NO. 8-2013

#### Prevention and Control of Fires

**A BY-LAW OF THE COUNTY OF BARRHEAD NO. 11, IN THE PROVINCE OF ALBERTA, FOR THE PREVENTION AND CONTROL OF FIRES WITHIN THE MUNICIPALITY.**

**WHEREAS** Section 7 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 (“*Municipal Government Act*”) provides that the Council of a Municipality may pass by-laws respecting the safety, health and welfare of people and the protection of people and property;

**AND WHEREAS** the *Forest and Prairie Protection Act*, R.S.A. 2000, Chapter F-19 (the “*Forest and Fire Protection Act*”), provides certain discretionary and mandatory powers to enable a Municipality to carry out and enforce the provisions of the *Forest and Prairie Protection Act* within its boundaries as applicable;

**AND WHEREAS** the Council of the County of Barrhead No. 11 considers it necessary and wishes to provide for the establishment of regulations, controls, and processes for preventing and controlling the igniting of fires within the County of Barrhead No. 11.

**NOW THEREFORE** the Council of the County of Barrhead No. 11 duly assembled and under the authority of the *Municipal Government Act*, as amended, hereby enacts as following:

#### **SECTION 1 – NAME OF BY-LAW**

1. This By-law may be cited as the “Prevention and Control of Fires By-Law”.

#### **SECTION 2 – DEFINITIONS**

1. In this By-law:
  - a. “Approved Fire Pit” means an outdoor receptacle, including but not limited to a barbeque or fire pit, that:
    - i. is a non-combustible container that:
      1. is a minimum of three (3) meters clearance from buildings, property lines, utility lines and combustible materials, or such other distance as approved by the Fire Chief;
      2. is constructed of bricks, concrete blocks, cement blocks, heavy gauge metal or other suitable non-combustible material components;
      3. has a spark arrestor mesh screen of thirteen (13) millimeters expanded (or an equivalent) metal to contain sparks over fire;
      4. uses only wood, charcoal briquettes, propane or natural gas fuels;  
or
    - ii. is a non-combustible container provided by the County within a designated public park where burning for cooking and warming is permitted.



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- b. "Burn Barrel" means a metal barrel with a spark arrestor mesh screen of thirteen (13) millimeters expanded metal to contain sparks over fire at all times, and that is used for the purpose of burning approved Household Garbage.
  - c. "CAO" means the Person appointed as Chief Administrative Officer of the County.
  - d. "Council" means the Council of the County of Barrhead No. 11 as constituted from time to time.
  - e. "County" means the County of Barrhead No. 11.
  - f. "Fire" means any combustible material in a state of combustion, and includes hot ashes and smoldering embers.
  - g. "Fire Ban" means a provincial ministerial order or an order of the Fire Chief that cancels any or all Fire Permits, prohibits the igniting of a Fire, and requires the extinguishment of any Fire.
  - h. "Fire Chief" means the Person appointed as head of the County's Fire Services or a Person designated to act on his behalf.
  - i. "Fire Guardian" means a Person named or appointed as Fire Guardian pursuant to section 4 of the *Forest and Prairie Protection Act*.
  - j. "Fire Permit" means a fire permit as referred to and issued pursuant to this By-Law.
  - k. "Fire Services" means a fire services organization, being a department or agency providing fire protection services to the County including services related to the suppression or prevention of Fires, rescue and emergency services and other activities of a Firefighter.
  - l. "Firefighter" means a member, including a volunteer, of a fire services organization whose functions, duties or powers are to carry out fire services, notwithstanding that the member may carry out other functions, duties or powers for the fire services organization.
  - m. "Household Garbage" means discarded material from household activities that when burned gives off offensive odours or visible smoke and includes but is not limited to wet organic waste, plastic, rubber, disposable diapers, glossy coloured paper, and particle board.
  - n. "Incinerator Fire" means a fire that is confined within a non-combustible structure or container with openings covered with a heavy gauge metal screen having a mesh size not larger than thirteen (13) millimeters, 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.
  - o. "Occupant" means any Person who is in possession, whether exclusive or not, of Property, which includes but is not limited to a lessee, licensee, tenant or agent of the Owner.



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- p. "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:
- i. Fires involving humus, wood, soil, farm produce, bush, grass, feed, straw or coal;
  - ii. any Fire that has escaped or spread from a building, structure, machine, vehicle or incinerator;
  - iii. an Incinerator Fire without the required metal screen; or
  - iv. a Smudge Fire without the required metal screen.
- q. "Owner" means a Person who
- i. Is the registered as the owner of Property pursuant to the *Land Titles Act*, R.S.A. 2000, Chapter L-4;
  - ii. Has purchased or otherwise acquired Property, either directly from a previous owner or from another purchaser and has not yet registered ownership;
  - iii. Is listed as the owner of a Property on the current assessment roll of the County; or
  - iv. Exercises the powers and authority of ownership over a Property or who holds himself out as having the powers and authority of ownership.
- r. "Peace Officer" means a Person appointed as a peace officer pursuant to section 7 of the *Peace Officer Act*, S.A. 2006, Chapter P-35.
- s. "Permit Form" means an application form for a Fire Permit, such form to be as approved by council from time to time.
- t. "Person" means an individual, firm, partnership, joint venture, proprietorship, corporation, association, society and any other legal entity.
- u. "Portable Appliance" means a portable appliance sold or constructed for the purpose of cooking out of doors.
- v. "Prohibited Debris" has the meaning as ascribed to it in the *Activities Designation Regulation*, Alta. Reg. 276/2003.
- w. "Property" means any real property and any buildings, structures or improvements located thereon.
- x. "Restricted District" means any area within the County designated by the County's Land Use By-law to be a Residential District, Institutional District, Commercial District or Commercial/Industrial District.
- y. "Restricted Burn Area" means an area within the County wherein Fires are restricted, as designated by Council or the Fire Chief.
- z. "Running Fire" means a Fire burning without being under the proper control of any Person.



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- aa. "Smudge Fire" means a Fire ignited for the purpose of protecting livestock from insects or for protecting garden plants from frost.
- bb. "Specified Penalty" means a penalty specified in Schedule "A" hereof.
- cc. "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.
- dd. "Violation Ticket" means a ticket issued for an offence committed against any of the provisions of this By-law and shall be issued pursuant to Part 2 of the *Provincial Offences Procedure Act*, R.S.A. 2000, Chapter P-34.

#### **SECTION 3 – FIRE GUARDIANS**

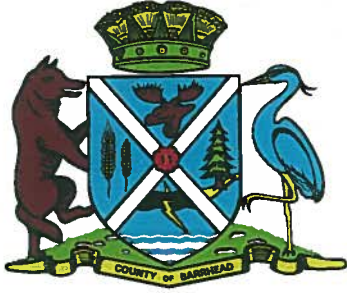
1. Each year before the first day of April, Council shall appoint a sufficient number of Fire Guardians to enforce the provisions of and in accordance with the *Forest and Prairie Protection Act* and this By-law within the boundaries of the County.

#### **SECTION 4 – POWERS OF FIRE GUARDIANS**

1. Unless otherwise limited by this By-law or the Fire Chief, each Fire Guardian shall have the authority and power to:
  - a. issue a Fire Permit in respect of any Property within the County;
  - b. issue a Fire Permit with standard conditions contained within the Permit Form and any additional conditions that the Fire Guardian deems appropriate in his or her absolute discretion;
  - c. suspend or cancel a Fire Permit at any time;
  - d. enforce the provisions of the *Forest and Prairie Protection Act* and this By-law within the boundaries of the County;
  - e. refuse issuance of a Fire Permit on reasonable and probable belief that a public interest risks exists related to the proposed Fire.
2. The Fire Chief has all of the authority and power of a Fire Guardian.

#### **SECTION 5 – FIRE PERMITS**

1. In addition to any fire permit required pursuant the *Forest and Prairie Protection Act*, all Fires in the County, unless specifically exempted by this By-law, shall require a Fire Permit issued pursuant to this By-law.
2. Council may, from time to time, by resolution establish a fee for issuing a Fire Permit.
3. Notwithstanding the foregoing, any fire permit issued pursuant to the *Forest and Prairie Protection Act* shall be deemed for all purposes to be a Fire Permit issued pursuant to this By-law.



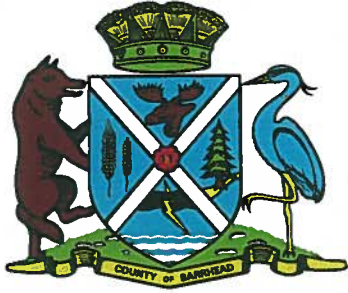
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4. An application for a Fire Permit shall be made by submitting a completed Permit Form to a Fire Guardian. The Fire Guardian shall receive and consider the Permit Form and, after having done so, the Fire Guardian may, in his or her absolute discretion, issue or refuse issuance of the Fire Permit.
  5. A Fire Permit issued pursuant to this By-law is valid for such period of time as determined by the Fire Guardian in his or her absolute discretion. The period of time in which the Fire Permit is valid shall be endorsed thereon.
  6. A Fire Permit for the burning of large brush piles, windrows, peat and other materials that are likely to result in a significant quantity of smoke will only be issued during the period of time between March 1 and December 15 of each year, or such other period of time as determined by the Fire Chief. A Fire Permit for such burning outside of this period of time shall be issued only by the Fire Chief. A Fire Permit for the burning of the aforementioned materials shall only be issued to an Owner.
  7. The Permit Form shall contain, among other things, the following information:
    - a. applicant's name and address;
    - b. municipal address or legal description of the Property that is the proposed location for the Fire;
    - c. whether the applicant is the Owner of the Property;
    - d. if required in the absolute discretion of the Fire Chief, the signature of the Owner of the Property that is the proposed location for the Fire;
    - e. a description of the materials the applicant proposes to burn;
    - f. the period of time for which the Fire Permit is requested to be valid;
    - g. the precautions proposed to be taken by the applicant to ensure that the proposed Fire will remain under control of the applicant;
    - h. the results of any moisture testing deemed necessary by the Fire Chief in his absolute discretion;
    - i. the applicant's signature;
    - j. if issued, the signature of the Fire Guardian issuing the Fire Permit.
  8. When an emergency arises or a potential emergency exists as determined in the absolute discretion of the Fire Chief, the Fire Chief is hereby authorized to suspend or restrict all Fire Permits and any Fires within all or any portion of the County for any period of time and on such conditions as may be determined by the Fire Chief in his absolute discretion.
  9. Upon receiving notice of the suspension or cancellation of a Fire Permit, the Person the Fire Permit was issued to shall immediately take action to extinguish any Fire authorized pursuant to the Fire Permit.
  10. If a Fire authorized pursuant to a Fire Permit continues to burn after the period of time for which the Fire Permit is valid, the Person the Fire Permit was issued to shall immediately take action to extinguish the Fire.
  11. A Fire Permit shall not be transferable.



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12. Notwithstanding any provision in this By-Law, the Fire Chief, in his absolute discretion, may issue any Fire Permit pursuant to this By-law, specify any additional conditions the Fire Chief deems appropriate, and designate any portion of the County a Restricted Burn Area.

#### **SECTION 6 – EXEMPTIONS**

1. A Fire Permit is not required for:
- a. an Approved Fire Pit when it contains a Fire that is:
    - i. supervised at all times by a responsible Person until such time as that Fire has been extinguished; and
    - ii. has a flame height that does not exceed ninety (90) centimeters above the Approved Fire Pit;
  - b. a Portable Appliance;
  - c. any Fires ignited for the purpose of training Firefighters; and
  - d. any Fire for which the Fire Chief in his absolute discretion determines that no Fire Permit is required.

#### **SECTION 7 – FIRE BANS**

1. At any time the Fire Chief, in his absolute discretion, may order a Fire Ban and require that any Fire is extinguished immediately.

#### **SECTION 8 – EXTINGUISHING FIRES AND COSTS**

1. When a Fire is ignited contrary to the terms or conditions of this By-law, or a Fire Permit, the Fire shall be extinguished immediately. If the Fire cannot be extinguished immediately it shall be reported immediately to Fire Services. Any of the following persons shall be liable, and guilty of an offense if such a Fire is not extinguished or reported to Fire Services, immediately:
- a. the Owner of the property upon which the Fire is located;
  - b. an Occupant of the Property upon which the Fire is located, maintained or allowed;
  - c. a Person that ignited the Fire;
  - d. the Person in control of the Fire;
  - e. the Person to whom a Fire Permit was issued regarding the Fire.
2. The County may extinguish any Fire as determined to be necessary by the Fire Chief in his absolute discretion.



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3. In the event that the County directs resources, including Fires Services, or a private contractor, to respond to, suppress, extinguish, control or contain any Fire, hazardous materials or other emergency services., the County, Fire Services or the hired private contractor, as the case may be, may enter on to any Property for those purposes.
4. The costs incurred by the County, including the cost of Fire Services or a private contractor, to respond to, suppress or extinguish, control or contain any Fire, hazardous material or other emergency services (the "Services") may be charged to and recovered from either:
  - a. the Owner or Occupant of the Property to which the Services were provided;
  - b. the Person that is in control of the Property;
  - c. the Person who ignited, maintained or allowed the Fire, or otherwise caused or created the need for the Services;
  - d. the Person to whom any Fire Permit was issued, in the case of a Fire.
5. The Owner of a Property shall in any event be liable for expenses and costs incurred by the County in extinguishing Fires on that Property. Should a Person fail to pay the County the aforementioned costs, the County may exercise its authority pursuant to the *Municipal Government Act* including but not limited to:
  - a. commencing a civil action for the debt in a court of competent jurisdiction; and
  - b. adding the unpaid costs and expenses related to the County extinguishing the Fire on the Property to the tax roll of the Property on which the Fire was located.

#### **SECTION 9 – OFFENCES**

1. No Person shall contravene any provision of this By-law.
2. No Person shall ignite, maintain or allow to be maintained, any Fire during a Fire Ban.
3. No Person shall ignite, maintain or allow to be maintained, a Fire except when such Fire is permitted pursuant to this By-law or that Person is the holder of a subsisting Fire Permit pursuant to this By-law or the *Forest and Prairie Protection Act* or both, which permits the Fire.
4. No Person shall ignite, maintain or allow to be maintained, a Fire upon Property of which that Person is the Owner or Occupant, or that is under that Person's control, except when such Fire is permitted pursuant to this By-law or that Person is the holder of a subsisting Fire Permit pursuant to this By-law or the *Forest and Prairie Protection Act* or both.
5. No Person shall contravene or breach any of the terms or conditions of a Fire Permit.
6. No Person shall ignite, maintain or allow to be maintained, a Fire in a Restricted District unless that Person is the holder of a subsisting Fire Permit that allows a Fire in the Restricted District.
7. No Person shall at any time, either directly or indirectly, personally or through an agent, servant, or employee, ignite a Fire and allow it to become a Running Fire on any Property or allow a Running Fire to pass from that Person's Property to another Property.



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8. No Person shall ignite a Fire without first taking sufficient precaution to ensure that the Fire can be kept under control at all times.
9. No Person shall ignite, maintain or allow to be maintained, a Fire in an unsafe manner as determined by the Fire Chief in his absolute discretion.
10. No Person shall allow a Fire to become out of control as determined by the Fire Chief in his absolute discretion.
11. No Person shall place Prohibited Debris within or upon a Fire.
12. No Person shall ignite, maintain or allow to be maintained, a Fire during a Fire Ban.
13. No Person shall obstruct or interfere with the performance of duties of the Fire Chief, a Fire Guardian, a Firefighter, or a person employed by, acting on behalf of or a member of the Fire Services, such obstruction or interference includes but is not limited to failing to provide access to Property and failing to provide identifying information about a Person.
14. No Person shall provide false or misleading information to the Fire Chief, a Fire Guardian, Fire Services, a Firefighter, or on a Permit Form.
15. No Person shall allow a Fire to give off dense smoke as determined by the Fire Chief in his absolute discretion.
16. No Person shall allow a Fire to give off smoke that impedes the visibility of vehicular traffic on a public road as determined by the Fire Chief in his absolute discretion.
17. No Person shall place Household Garbage within or upon a Fire located within a Restricted District.

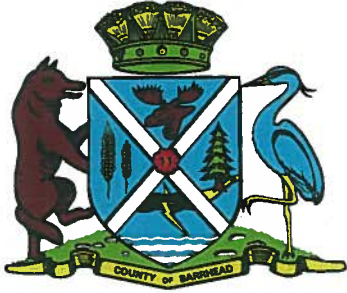
#### **SECTION 10 – PENALTIES**

1. Any Person who fails to hold a valid Fire Permit when one is required pursuant to this By-law, or who fails to comply with any provision contained in this By-law, is guilty of an offence and is liable on summary conviction to specified penalties as prescribed in Schedule “A” hereof. If no special penalty is provided the Court may impose a fine not exceeding \$10,000.00 or imprisonment for not more than one year, or both.
2. A Peace Officer is authorized to enforce this By-law under section 7 of the *Municipal Government Act*, and may, under Part 2 of the *Provincial Offences Procedures Act*, issue a Violation Ticket.

#### **SECTION 11 – SEVERABILITY**

1. Should any section of this By-law be found to have been improperly enacted, for any reason, then such section or part shall be regarded as severed from the remainder of this By-law and this By-law remaining after such severance shall be effective and enforceable as if the severed section had not been enacted as part of this By-law.
2. For clarity, this By-law is applicable only to those areas within the boundaries of the County over which the County has the authority and jurisdiction to pass such a by-law.





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3. Nothing in this By-law is intended to contravene the *Animal Health Act*, S.A. 2007, Chapter A-40.2, and its Regulations, including the *Destruction and Disposal of Dead Animals Regulation*, Alta. Reg. 229/2000, and in the case of any conflict with this By-law the aforementioned legislation shall govern.

#### SECTION 12 – THREE-YEAR SUNSET CLAUSE

1. This By-law shall be reviewed within three (3) years of the date it receives third and final reading of Council.


#### SECTION 13 – GENERAL

1. By-law No. 26-94 and By-Law No. 1-2001 are hereby repealed upon this By-law coming into effect.
2. This By-law comes into effect upon third and final reading, and signature by the Reeve and County Manager.

FIRST READING GIVEN THE 3RD DAY OF SEPTEMBER, 2013.

SECOND READING GIVEN THE 17TH DAY OF SEPTEMBER 2013.

THIRD READING GIVEN THE 17TH DAY OF SEPTEMBER 2013.

  
\_\_\_\_\_  
Reeve

  
\_\_\_\_\_  
County Manager

Seal



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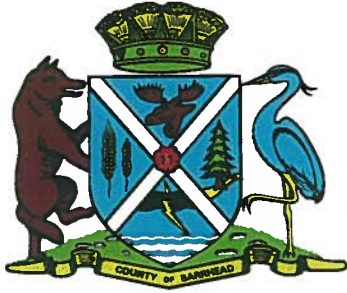
**Prevention and Control of Fires**

**SCHEDULE "A"**

WHEREAS, under the provisions of Section 44 of the *Provincial Offences Procedure Act*, and under the provisions of Section 7 of the *Municipal Government Act*, Council may by By-law provide for the payment of Violation Tickets or summons out of court.

A Violation Ticket may be issued by a Peace Officer to any Person charged with a breach of any of the provisions of this By-law and the hereto-mentioned Acts shall apply in regard to the payment.

		<b>First Offence</b>	<b>Second Offence</b>	<b>Subsequent Offence(s)</b>
Section 9.1	Contravene any provision of this By-law.	\$250.00	\$500.00	\$1,000.00
Section 9.2	Ignite, maintain or allow to be maintained, any Fire during a Fire Ban.	\$250.00	\$500.00	\$1,000.00
Section 9.3	Ignite, maintain or allow to be maintained, a Fire except when such Fire is permitted pursuant to this By-law or that Person is the holder of a subsisting Fire Permit pursuant to this By-law or the <i>Forest and Prairie Protection Act</i> or both, which permits the Fire.	\$300.00	\$600.00	\$900.00
Section 9.4	Ignite, maintain or allow to be maintained, a Fire upon Property of which that Person is the Owner or Occupant, or that is under that Person's control, except when such Fire is permitted pursuant to this By-law or that Person is the holder of a subsisting Fire Permit pursuant to this By-law or the <i>Forest and Prairie Protection Act</i> or both.	\$300.00	\$600.00	\$900.00
Section 9.5	Contravene or breach any of the terms or conditions of a Fire Permit.	\$300.00	\$600.00	\$900.00
Section 9.6	Ignite, maintain or allow to be maintained, a Fire in a Restricted District unless that Person is the holder of a subsisting Fire Permit that allows a Fire in the Restricted District.	\$250.00	\$500.00	\$1,000.00
Section 9.7	At any time, either directly or indirectly, personally or through an agent, servant, or employee, ignite a Fire and allow it to become a Running Fire on any Property or allow a Running Fire to pass from that Person's Property to another Property.	\$300.00	\$600.00	\$900.00



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Section 9.8	Ignite a Fire without first taking sufficient precaution to ensure that the Fire can be kept under control at all times.	\$250.00	\$500.00	\$1,000.00
Section 9.9	Ignite, maintain or allow to be maintained, a Fire in an unsafe manner as determined by the Fire Chief in his absolute discretion.	\$250.00	\$500.00	\$1,000.00
Section 9.10	Allow a Fire to become out of control as determined by the Fire Chief in his absolute discretion.	\$250.00	\$500.00	\$1,000.00
Section 9.11	Place Prohibited Debris within or upon a Fire.	\$250.00	\$500.00	\$1,000.00
Section 9.12	Ignite, maintain or allow to be maintained, a Fire during a Fire Ban.	\$250.00	\$500.00	\$1,000.00
Section 9.13	Obstruct or interfere with the performance of duties of the Fire Chief, a Fire Guardian, a Firefighter, or a person employed by, acting on behalf of or a member of the Fire Services, such obstruction or interference includes but is not limited to failing to provide access to Property and failing to provide identifying information about a Person.	\$500.00	\$750.00	\$1,000.00
Section 9.14	Provide false or misleading information to the Fire Chief, a Fire Guardian, Fire Services, a Firefighter, or on a Permit Form.	\$500.00	\$750.00	\$1,000.00
Section 9.15	Allow a Fire to give off dense smoke as determined by the Fire Chief in his absolute discretion.	\$100.00	\$300.00	\$500.00
Section 9.16	Allow a Fire to give off smoke that impedes the visibility of vehicular traffic on a public road as determined by the Fire Chief in his absolute discretion.	\$100.00	\$300.00	\$500.00
Section 9.17	Place Household Garbage within or upon a Fire located within a Restricted District.	\$100.00	\$300.00	\$500.00