

The Town of Millet Open Air Fire Bylaw

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WHEREAS, Pursuant to the provisions of Part 2, Division 1, Section 7, of the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26 and amendments thereto, the Council may pass Bylaws for the purpose of promoting the safety, health, and welfare of people and the protection of people and property, the prevention of nuisances, and, for services provided by or on behalf of a municipality;

NOW THEREFORE, the Council of The Town of Millet, duly assembled enacts as follows

PART I BYLAW TITLE

This Bylaw may be cited as "Open Air Fire Bylaw".

PART II PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE 1) The purpose of this Bylaw is to regulate the use of open air fires for the purpose of fire safety and to control the nuisance effect of such fires.

DEFINITIONS 2) In this Bylaw:

- a) "Acceptable fuel" means material that can be burned during an open air fire. This includes:
 - (i) Clean, dry wood;
 - (ii) Charcoal;
 - (iii) And synthetic logs
- b) "Burning Season" means year round use of open air fire.
- c) "Peace Officer" means any member of the Royal Canadian Mounted Police, a Community Peace Officer, or a Bylaw Enforcement Officer
- d) "Council" means the council of the Town of Millet
- e) "Designate" means any member of the Millet Fire Department
- f) "Fire" means any combustible material in a state of combustion.
- g) "Fire Chief" means the individual appointed by Council and may include, at the discretion of the Fire Chief, other members of the Millet Fire Department as designated.
- h) "Fire Hazard" means any condition, circumstance or event wherein the possibility of fire is increased.
- i) "Fire Permit" means a document issued by the Fire Department, under the authority of Council, pursuant to this Bylaw.

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- j) "Fire Protection" means all aspects of fire safety including but not limited to fire prevention, fire fighting or suppression, pre-fire planning, fire investigation, public education and information, and training.
- k) "Fire Services Charge" means any or all costs incurred by the Millet Fire Department in providing fire services.
- l) "Inspector" means a Safety Codes Officer in the fire discipline, any member of the Millet Fire Department, or a Community Peace Officer authorized by Council to conduct an inspection pursuant to this Bylaw.
- m) "Municipality" means The Town of Millet.
- n) "Nuisance Burning" means any condition on or around a property that is dangerous to the safety or health of individuals, or which interferes with the use or enjoyment of other property.
- o) "Open Air Fire" means any fire not contained within a building but does not include industrial flare stacks or portable barbecue device.
- p) "Outdoor Fireplace" means a fireplace installed in accordance with this Bylaw.
- q) "Occupant" means a person using a property and includes an owner, tenant, agent and any other person who has the right of access to the property.
- r) "Portable Barbecue Device" means any appliance sold or constructed for the sole purpose of cooking foods outdoors, while fuelled by liquefied petroleum gas, natural gas, compressed or charcoal briquettes, as originally prescribed by the manufacturer.
- s) "Prohibited Material", as defined by the Substance Release Regulation AR-124/93, pursuant to the *Alberta Environment Protection and Enhancement Act*, means any combustible waste that when burned, may result in the release to the atmosphere of dense smoke, offensive odors or toxic substances, including but not limited to:
 - (i) Animal waste products or parts;
 - (ii) Pathological waste;
 - (iii) Tires;
 - (iv) Rubber or plastic or anything containing or coated with rubber or plastic;
 - (v) Wood products containing oil substances ie: railway ties, or wood products for the purpose of preserving

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- wood; including painted or stained wood.
 - (vi) Non-wooden materials;
 - (vii) Grass, leaves, straw, stubble and other vegetation ; or
 - (viii) Household refuse.
- t) "Property" means any real or personal property which, without limiting the generality of the foregoing, includes land, buildings or structures.
- u) "Violation Ticket" means a ticket issued pursuant to the *Provincial Offences Procedure Act*.

INTERPRETATION 3) The marginal notes and headings in this Bylaw are for reference purposes only.

PART III FIRE PERMITS AND NON-APPLICATION OF BYLAW

- 3.1 Permits are required for all open air fires or fire places in accordance with this Bylaw.
- 3.2 An application for these permits shall be made in writing to the Fire Chief or a designate.
- 3.3 Upon receipt of an application, the Fire Chief or a designate; shall consider the fire permit application and may in their discretion;
- (i) Refuse to grant a fire permit;
 - (ii) Grant a fire permit with or without terms and conditions as deemed appropriate;
 - (iii) Determine that a fire permit is not required.
- 3.4 Each application for a fire permit must contain the following information:
- (i) Name, address, and phone number of the applicant;
 - (ii) Business license number (if applicable)
 - (iii) Name and address of the owner of the property if different from name on application;
 - (iv) Legal description and / or civic address of the property on which their permit exists;

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- (v) Type of open air fire appliance to be installed;
 - (vi) Precautions, if any, that will be taken by the applicant to ensure that the proposed fire remains under their control;
 - (vii) Signature of the applicant; and
 - (viii) Written consent of the property owner, where different from the applicant.
- 3.5 The Fire Chief may require that an Inspector examine the property prior to the issuance of a fire permit.
- 3.6. Fire permits issued pursuant to this Bylaw are valid for such period of time as shall be determined by the Fire Chief or designate and as noted on the fire permit.
- 3.7 The Fire Chief or designate may extend the period of time for which the fire permit is valid.
- 3.8 The Fire Chief or designate may for cause, in their discretion, suspend or cancel a fire permit or impose additional conditions to a fire permit at any time.
- 3.9 Notification of suspension or cancellation of a fire permit shall be made by telephone, or in person, to the permit holder and shall be confirmed by providing written notice of such suspension or cancellation to the holder of the fire permit.
- 3.10 A fire permit shall not be required under this Bylaw to conduct:
- (i) Cooking of food using a portable barbeque device;
 - (ii) Burning in municipal campgrounds where outdoor fireplaces, fire pits and stoves have been provided by the municipality and approved by the Fire Chief;
 - (iii) Burning by the Fire Department for the purpose of training; and,
 - (iv) Burning by the Fire Department or by Alberta Environmental Protection for the purpose of fire hazard abatement.
- 3.11 The Fire Chief or designate may by fire permit, allow an open air fire, of acceptable fuel, subject to the following:
- (i) All materials to be burned originate from the property for which the fire permit is issued;
 - (ii) Non-salvageable timber, which has been allowed to dry for at least one year;
 - (iii) Weather conditions immediately prior to and during the burning are such as to ensure control of such fire and maintain

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- acceptable smoke levels as determined by the Fire Chief; and,
- (iv) Except as otherwise provided for in this Bylaw, a competent person must be present at all times; be 18 years of age or older; and provided with adequate means of extinguishing the fire within one hour of any weather change that may threaten levels or conditions set forth in Section 3.11(iv) noted above.

3.12 A fire permit is not transferable.

PART IV FIRE PITS

- 4.1 Except where otherwise accepted by the Fire Chief, fire pits must adhere to the following regulations:
- (i) The owner or occupant of the property shall possess an open air fire permit;
 - (ii) Shall be constructed of non-combustible materials;
 - (iii) Shall be covered by a spark arrestor mesh or grate with openings not to exceed 1.3 centimeters (1/2 inch) in any dimension;
 - (iv) Shall not be located closer than 3 meters (10 feet) from a property line and any combustible material including but not limited to, buildings, structures, fences, trees and patio decks;
 - (v) Shall not be located less than 1 meter (3 feet) laterally and 5 meters (16 feet) vertically from an overhead utility line;
 - (vi) Does not exceed 46 centimeters (18 inches) in height; and,
 - (vii) Does not exceed 1 meter (39 inches) in diameter.

PART V CHIMINEA AND PORTABLE FIRE PLACES / STOVES

- 5.1 Except where otherwise accepted by the Fire Chief, chiminea and portable fire places / stoves must adhere to the following regulations;
- (i) The owner or occupant of the property shall possess an open air fire permit;
 - (ii) Shall not be used indoors or on balconies;
 - (iii) If placed on a wooden deck, shall be on a non-combustible surface with a 40 centimeter (16 inch) clearance around the appliance and a minimum 30 centimeters (12 inch) in height from the base;
 - (iv) If placed on the ground, there shall be a 40 centimeter (16 inch) clearance around the appliance from combustible

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- materials and a minimum 30 centimeter (12 inch) in height from the base;
- (v) The fire box shall not exceed 76 centimeters (36 inches) in width and shall be between 40 -60 centimeters (16 – 24 inches) in depth; and,
- (vi) Fire places shall have a secured chimney no less than 2.4 meters (8 feet) in height.

PART VI FIRE SERVICES CHARGES

- 6.1 Upon providing fire services on property within the Town of Millet boundaries, to any of the types of fire governed by this Bylaw, in its absolute discretion, the Town of Millet may charge:
- (i) The person causing or contributing to the fire;
 - (ii) The owner or occupant of the property; or
 - (iii) Both of the above.
- 6.2 All persons charged are jointly and severally responsible for the fire services charge.
- 6.3 The owner of property to which fire services are provided is liable for the costs incurred. In default of payment of the fire services charge, the Town of Millet, may add the fire services charge to the tax roll of the said land, which forms a special lien against the land in favor of the Town of Millet, from the date it was added to the tax roll.

PART VII CONTROL OF FIRE HAZARD

- 7.1 If the authority having jurisdiction finds within the Town of Millet boundaries, on privately owned or occupied public land, conditions governed by this Bylaw, 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 fire hazard within a fixed time in a manner prescribed by the Town of Millet.
- 7.2 If authority having jurisdiction finds that the order it made pursuant to Section 7.1 has not been carried out, a designated officer may enter onto the land with any equipment and any person he or she considers necessary and may perform the work required to eliminate or reduce the fire hazard.
- 7.3 The Owner or occupant of the land on which work was performed pursuant to Section 7.2 shall, upon demand, pay to the Town of Millet a fire services charge as specified in Schedule A, Section 2.

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PART VIII OFFENCES

- 8.1 No person(s) shall ignite or permit to be ignited an open air fire without a valid fire permit, except as permitted by Section 3.10 of this Bylaw.
- 8.2 No person(s) shall burn or permit to be burned any material identified as prohibited debris.
- 8.3 No person(s) shall burn or permit to be burned any materials resulting from the demolition or construction of buildings or structures, unless the materials meet the requirements of acceptable fuel.
- 8.4 No person(s) shall ignite or permit to be ignited a fire on the property of another without the written consent of the owner of the property.
- 8.5 No person(s) shall deposit, discard, or leave any burning matter or substance where it might ignite any other material and cause a fire.
- 8.6 No person(s) shall provide false, incomplete, or misleading information to the municipality or the Fire Department, on, or with respect to, a fire permit or fire permit application.
- 8.7 No person(s) shall light a fire or permit a fire to be lit without first taking sufficient precautions to ensure that the fire can be kept under control at all times, not create smoke obscuration levels in excess of those noted in Section 3.11 (iii), or otherwise create a nuisance burning to occupied properties.
- 8.8 No person(s) shall light a fire or permit a fire to be lit when the weather conditions are conducive to create a fire that burns out of control, causes smoke obscuration in inhabited areas in excess of those noted in 3.11 (iii), or otherwise creates a nuisance burning to occupied properties.
- 8.9 No person(s) shall fail to take reasonable steps to control a fire for the purpose of preventing it from becoming a fire burning out of control or from spreading onto property other than his or her own.
- 8.10 No person(s) shall conduct any activity that involves the use of a fire, where smoke from the fire impedes visibility of vehicular traffic and pedestrian traffic on any highway, as defined in the *Traffic Safety Act*.
- 8.11 No person(s) shall light a fire on lands owned or controlled by the municipality, except with the municipality's express written consent, or as permitted by Section 3.10 of this Bylaw.

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- 8.13 No person(s) shall conduct an activity that involves the use of a flame that might reasonably be expected to cause a fire, unless that person exercises reasonable care to prevent the fire from occurring.
- 8.13 No person shall ignite any type of open air fire during a time which the Fire Chief or designate has issued a ban on fires.

PART IX PENALTIES AND ENFORCEMENT

- 9.1 Every person who contravenes any of the provisions of this Bylaw is guilty of an offence.
- 9.2 A person who obstructs a Peace Officer or Inspector in the lawful execution of their duties is guilty of an offence and liable to a fine of not more than \$5,000.00 and in default of payment to a term of imprisonment of not more than 60 days.
- 9.3 The specified penalty payable in respect of a contravention of a provision of this Bylaw is the amount shown in Schedule "A" of this Bylaw in respect of that provision.
- 9.4 When a Peace Officer believes that a person has contravened any provision of this Bylaw, he may commence proceedings by issuing a violation ticket in accordance with the *Provincial Offence Procedure Act*, or from laying information instead of issuing a violation ticket.

PART X SEVERABILITY

Should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained.

PART XI EFFECTIVE DATE

AND FURTHER THAT this bylaw shall take effect on the date of third and final reading.

READ a first time this 22nd day of December, 2010.

READ a second time this 22nd day of December, 2010

READ a third and final time this 12th day of January, 2011.

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MAYOR

CHIEF ADMINISTRATIVE OFFICER

SCHEDULE "A" – SCHEDULE OF FINES & FIRE SERVICE CHARGES

1. **SCHEDULE OF FINES**

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Section	Offence	Penalty
8.1	Igniting fire without valid fire permit	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.2	Burning prohibited debris	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.3	Burning demolition / construction materials	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.4	Lighting fire on property without owner consent	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.5	Deposit, discard, or leave burning matter / substance which ignites other material.	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.6	Providing false, incomplete or misleading information on fire permit application.	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.7	Igniting fire causing smoke obscuration or nuisance burning to occupied properties	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.8	Igniting fire during weather condition conducive to causing fire to burn out of control	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.9	Failing to take reasonable steps to control fire	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.10	Activity using fire, whereby smoke impedes the visibility of vehicular and pedestrian traffic on any highway	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.11	Igniting fire on lands owned or controlled by Municipality	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.12	Conducting an activity that involved the use of a flame which caused fire to burn out of control without taking reasonable care	\$100.00
	(a) second offence within one year	\$250.00
	(b) third offence within one year	\$500.00
8.13	Ignite a fire during a fire ban	\$250.00

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2. **FIRE SERVICES CHARGE**

If fire services are required relating to any offense of this Bylaw, then the penalty shall include the costs associated with the municipal fire response as described below:

- 2.1 \$300 / unit / hour
- 2.2 Minimum one hour will be charged

SCHEDULE "B"

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PERMIT APPLICATION

The Town of Millet and the Millet Fire Departments reserves the right to regulate and control the design, construction materials and safe precautions of all open air fire pits, fireplaces and other appliances within the corporate limits of the Town of Millet and any land under the care of the Town of Millet.

Applicant's Name: _____

Address: _____

Phone (Home) _____ (Cell) _____

Owner's Name (if different from above) _____

Owner's Address (if different from above) _____

Approval by Land Owner (Y or N) _____

Business License # (if applicable) _____

Type of Outdoor Fire Installation

Fire Pit _____ Outdoor Fireplace _____ Portable Barbeque Device _____

Other, specify _____

Type of Construction

Brick _____ Concrete Brick _____ Masonry _____

Heavy Gauge Metal _____ Other, specify _____

All Utility Companies have been consulted for line locations?

Yes _____ No _____ Not Applicable _____

I, the above applicant, have read and understand the sections of the permit application, and the "Open Air Fire Bylaw No....." attached to this application, and warrant that my installation is in compliance with this Bylaw. I further accept any and all responsibility and liability for damages that may occur from the use of my installation.

Signature of Applicant

Date

Inspected and Approved By _____ (Name, Title)

On this _____ Day of _____, 20_____.

Signature: _____

SCHEDULE "C"

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OPEN AIR FIRE PERMIT - BUSINESS

Date Issued:

Town of Millet Fire Services hereby authorizes:

Name: _____

Property Owner (if different than above): _____

Address: _____

Telephone: _____

To initiate a Fire in accordance with this Permit at:

Address: _____

For the purposes of:

___ Burning approved burnable debris

This Permit is valid from _____ to _____.

Important

The Permit Holder must comply with the terms of this Permit, the Alberta Fire Code, the Town of Millet Open Air Fire Bylaw, all other applicable statutes and bylaws, and their successors including all amendments.

The Permit Holder, and his or her heirs, executors and administrators, release and forever discharge the Town of Millet, it's employees, agents and servants from all manner of actions, claims, losses, suits, damages, proceedings and demands by any third party relating in any way to the lighting of an Open Air Fire or the issuance of this Permit.

The Permit Holder indemnifies and saves harmless the Town of Millet, it's employees, agents and servants from any and all manner of actions, claims, losses, suits, damages, proceedings and demands by any third party relating in any way to the lighting of an open air fire or issuance of this permit.

I have read this permit and the conditions, which form part of the permit, and I understand the conditions and information contained herein.

PERMIT HOLDER

AUTHORIZATION