VILLAGE OF SPRING LAKE

BYLAW #317

BEING A BYLAW OF THE VILLAGE OF SPRING LAKE IN THE PROVINCE OF ALBERTA TO PROHIBIT AND CONTROL OPEN BURNING WITHIN THE CORPORATE LIMITS OF THE VILLAGE OF SPRING LAKE

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 Village of Spring Lake deems it proper to pass a bylaw to control and prohibit burning within the Village of Spring Lake; and

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

I. This bylaw may be cited as *The Open Burning Bylaw.*

2. In this bylaw:

(a) "Council" means the Council of the Village of Spring Lake

(b) "CAO" means the person appointed as the Chief Administrative Officer of the Village of Spring Lake.

(c) "Fire Chief" means the member appointed by Council as head of the Fire Department;

(d) "Fire Department" means the Parkland County Fire Services.

(e) "Fire Permit" means a permit issued and in a format prescribed by the Fire Chief, his designate or Peace Officer allowing for the setting of outdoor fires, structure fires or incinerator fires within the Town;

(f) "Fire Pit" means a permanently affixed outdoor fire receptacle.

(g) "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;

(h) "Non-Burnable Debris" means any flammable debris or waste material, and includes but is not restricted to:

i) new and/or used utility poles and/or railroad ties
ii) wooden and/or waste material from the construction and/or demolition of buildings and/or construction sites
iii) animal cadavers and/or manure
iv) pathological wastes
v) garbage or refuse from commercial, industrial and/or municipal operations
vi) combustible material in vehicle body, tires and/or oil for combustion engines
vii) rubber, plastic or anything containing and/or coated with rubber, plastics, styrofoam or similar substances;

(i) "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;

(j) "Open Fire" means a fire that is not confined within a noncombustible container or structure;

(k) "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;

(l) "Owner" means:
- i) The person as registered on title at the Land Titles Offices;
- ii) A person who is recorded as the owner of the property on the assessment roll of the Village
- iii) A person who has purchased or otherwise acquired the property, whether purchased or otherwise acquired from the owner or from another purchase, and has not become the registered owner thereof;
- iv) A person controlling the property under construction; or
- v) A person who is the occupant of the property under a lease, license, or permit.

(m) "Peace Officer" means a person appointed as a peace office under Section 7 of the Peace officer Act;

(n) "Portable Fire Receptacle" means an outdoor fire receptacle that is not permanently affixed;

(o) "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.

(p) "Running Fire" means any fire burning without being under the proper control of any person;

(q) "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;

(r) "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;

(s) "Village" means the Village of Spring Lake 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 Peace 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 Village of Spring Lake;
- 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 ofthe 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 fire pit must not exceed 1.1 metres in diameter;
v) 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 ofairborne 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.

(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 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 Fire Department or Peace Officer has taken any action whatsoever for the purpose of extinguishing a fire, responding to a fire call or incident in the Village, or for the purpose of preserving life or property from injury or destruction by fire or other incident on property within the Village, including any action taken by the Fire Department on a false alarm, the Fire Chief, the Peace Officer, or CAO may, in respect of any costs incurred by the Fire Department or Village in taking such action, charge these costs to the owner or occupant of the property in respect of which the action was taken.

(b) The costs for Fire Department and/or Peace Officer services rendered shall be determined by the Fire Chief, Peace Officer or the CAO. In the event that the owner shall feel aggrieved by any action taken by the Fire Chief, Peace Officer, or CAO Section 6 (a), he or she shall have a period of thirty (30) days from the date of mailing of the notice to appeal to Council the action. 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 further appeal.

(c) In respect of the cost or fee described in Section 6(a):

i) The Village of Spring Lake may recover such costs or fees as an amount due and owing to The Village of Spring Lake pursuant to Section 552 of the *Municipal Government Act* R.S.A. 2000, Chapter M-26; and
ii) in default of payment, where permitted by the *Municipal Government Act* R.S.A. 2000, Chapter M-26 Section 533(1) (c), add the amounts due to the tax roll of the property in question.

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 non-burnable 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 $100.00 for first offence and $200.00 for second and subsequent offences.

(b) Any person who contravenes any section of this bylaw is guilty of an offence is liable to a fine of $100.00 for first offence and $200.00 for second and subsequent offences.

(c) Every Peace Officer is hereby granted authority and charged with the duty of enforcing the provisions of this By-Law.

(d) Any fine or penalty imposed under this By-Law shall ensure to the benefit of the Village of Spring Lake.

(e) A Peace Officer is hereby authorized and empowered to issue a Violation Tag to any person, who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this bylaw.

(f) A Violation Tag may be issued to such person:
   i) personally;
   ii) by mailing a copy to such person at his last known post office address; or
   iii) by leaving it for the defendant at his residence with a person on the premises who appears to be at least 18 years of age.

(g) The Violation Tag shall be in a form approved by the Village Administrator and shall state:
   i) the name of the defendant;
   ii) the offence;
   iii) the appropriate penalty for the offence as specified by this By-Law;
   iv) that the penalty shall be paid within 30 days of the issuance of the Violation Tag;
   v) any other information as may be required by the Village Administrator

(h) Where a contravention of this By-Law is of a continuing nature, further Violation Tags may be issued by a Peace Officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.

(i) Where a Violation Tag is issued pursuant to this By-Law, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village Treasurer the penalty specified on the Violation Tag.

(j) Nothing in the By-Law shall prevent a Peace Officer from immediately issuing a Violation Ticket.

(k) In those cases where a Violation Tag has been issued and if the penalty specified on the Violation Tag has not been paid within the prescribed time, then a Peace Officer is hereby authorized to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act, to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this By-Law.

(l) Any person to whom a Violation Ticket has been issued may make voluntary payment in respect of the Violation Ticket by delivering the Violation Ticket along with an amount equal to that specified for the offence as set out in this By-Law, to the Provincial Court office specified on the Violation Ticket.

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

10. This bylaw repeals Bylaw #311.

11. 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 9th day of February, 2010

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Village of Spring Lake

Mayor

Chief Administrative Officer