

Proposed Text for a new Fire Operations and Fees Bylaw

PART I

GENERAL PROVISIONS

Short Title

1. This Bylaw may be cited as the “Fire Operations and Fees Bylaw”.

2. (1) In this Bylaw:

“alarm services provider” means any person who installs, maintains or monitors fire alarm systems, security alarm systems or both;

“apparatus” means any vehicle or equipment used or operated by the Department;

“business owner” means a person in whose name a business licence is issued;

“City” means the municipal corporation of The City of Calgary, and includes the geographical area within the boundaries of The City of Calgary where the context so requires;

“Council” means the Council of the City;

“dangerous goods” means:

(i) any material or substance that may constitute an immediate or long-term adverse effect to life, health, property or the environment when burned, spilled, leaked or otherwise released from its normal use, handling, storage or transportation environment; and

(ii) any product, substance or organism listed in Schedule 1 of the Alberta Dangerous Goods Transportation and Handling Regulation, AR 157/1997;

“Department” means the City business unit known as the Calgary Fire Department;

“emergency” includes a situation in which there is imminent danger to public safety or of serious harm to property;

“equipment” means any tools, contrivances, devices or materials used by the Department;

“false alarm” means an alarm from a *fire alarm system* or other device to which the *Department* responds where no actual danger or possible danger to the safety, health and welfare of people, property or the environment exists;

“fire alarm system” means any mechanical or electrical device which is designed or used for the detection of fire at a premises, *structure* or facility and which transmits a signal or message when activated;

“Fire Chief” means the individual appointed to the position of Fire Chief pursuant to section 3;

“Fire Code” means any code, standard or body of rules declared in force pursuant to the Fire Code Regulation, AR 118/2007;

“fire protection” means all aspects of fire safety including fire fighting and suppression, pre-fire planning, fire prevention, fire inspection, fire investigation, public education and information, training and other staff development, rescue and emergency services and the delivery of all those services;

“incident” means any situation to which the *Department* has responded due to the danger or possible danger to the safety, health and welfare of people, property or the environment;

“member” means any employee of the *City* that reports either directly or indirectly to the *Fire Chief*;

“officer” means a member of the Calgary Police Service or a *City* bylaw enforcement officer appointed pursuant to Bylaw 60M86;

“open air fire” includes:

- (i) an open flame used in a procession, display or as part of an act or entertainment;
- (ii) a fire for training purposes;
- (iii) a fire associated with a special event or production; and
- (iv) a fire used for the purposes of ground thawing;

but does not include a fire in a fire pit or outdoor fire receptacle;

“person” means an individual or a body corporate and includes a partnership, a group of persons acting in concert or an association unless the context explicitly or by necessary implication otherwise requires;

“property manager” includes a management company and a *person* who is responsible for the maintenance or upkeep of a *structure*;

“property owner” includes a *person* on title for a parcel of land, a tenant, and a *person* in apparent control of a parcel of land;

“*registered owner*” means the *person* in whose name a vehicle is registered pursuant to the *Traffic Safety Act*, R.S.A. 2000, c. T-6;

“*security alarm system*” means an alarm system intended to detect an unauthorized entry to a premises or to alert people to the commission of an unlawful act, or both;

“*structure*” means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by transfer or sale of the land.

- (2) Nothing in this Bylaw relieves a *person* from complying with any federal or provincial law or regulation, other bylaw or any requirement of any lawful permit, order or licence.
- (3) Any headings or subheadings in this Bylaw are included for guidance purposes and convenience only, and do not form part of this Bylaw.
- (4) Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.
- (5) All Schedules attached to this Bylaw form part of this Bylaw.
- (6) Any reference in this Bylaw to a section, unless otherwise specified, is a reference to a section in this Bylaw.
- (7) Specific references to laws in this Bylaw are meant to refer to the current laws applicable within the Province of Alberta as at the time this Bylaw was enacted and as they are amended from time to time, including successor legislation.

PART II

FIRE CHIEF

Appointment of Fire Chief

3. (1) The *Fire Chief* is appointed by *Council*.
- (2) The *Fire Chief* is subject to the supervision of and accountable to the General Manager, Community Services and Protective Services. The General Manager is responsible for the *Fire Chief's* performance management, up to and including dismissal.
- (3) If the position of *Fire Chief* becomes vacant due to resignation, retirement or termination, the General Manager, Community Services and Protective Services may appoint an interim *Fire Chief*.

Acting Fire Chief

4. The *Fire Chief* may appoint an Acting Fire Chief in the *Fire Chief's* absence.

Authority

5. (1) The *Fire Chief* has responsibility for fire protection services provided by the City and has authority over the *Department* for this purpose. The Fire Chief must prescribe the rules, regulations and policies for:
 - (a) the use, care and protection of *apparatus*;
 - (b) the conduct, discipline, duties and responsibilities of the *members*; and
 - (c) the efficient and sustainable operation of the *Department*.
- (2) The *Department* is subject to all City policies, except to the extent that those policies hinder or interfere with the *Department's* ability to respond to fires or other *emergencies*.

Jurisdiction

6. The limit of the authority of the *Fire Chief* extends to the area and boundaries of the *City*, excepting that the *Fire Chief* is authorized to dispatch *apparatus* and *members* to *incidents* beyond the boundary limits of the *City* where:
 - (a) such response does not compromise *fire protection* services of the *City*; or
 - (b) the *City* has entered into a contractual arrangement with a municipality or other *person* to provide *fire protection* or other services.

PART III

FIRE DEPARTMENT OPERATIONS AT INCIDENTS

Control, Direction and Management

7. The highest ranking *member* present at an *incident* has control, direction and management of any *apparatus* or *member* deployed to the *incident*.

Demolishing structures

8. The highest ranking *member* present at an *incident* is empowered to cause a *structure* or thing to be pulled down, demolished or otherwise removed if it is deemed necessary to prevent the spread of fire to other *structures* or things.

Entry onto premises

9. The highest ranking *member* present at an *incident* is empowered to enter *structures* or property where the *incident* is occurring and to cause any *member* or *apparatus* to enter the premises or property in order to combat, control or deal with the *incident*.

Entry onto adjacent premises

10. Any *member* at an *incident* is empowered to enter, pass through or over *structures* or property adjacent to the property where the *incident* is occurring and to cause *apparatus* to enter or pass through or over the *structure* or property, where it is deemed necessary to gain access to the *incident* or to protect any *person* or property.

Incident boundary

11. (1) The highest ranking *member* present at an *incident* may establish a perimeter around the *incident* and keep *persons* from entering the area within the perimeter.
- (2) A *person* must not enter the area established pursuant to subsection (1) unless authorized to do so by the highest ranking *member* present at an *incident*.

Order to vacate

12. (1) The highest ranking *member* present at an *incident* may direct *persons* to vacate a *structure* or an area established pursuant to subsection 11(1).
- (2) A *person* must comply with a direction made pursuant to subsection (1).
- (3) The highest ranking *member* present at an *incident* may request the assistance of an *officer* to ensure no *person* remains in or re-enters a *structure* or an area established pursuant to section 11(1).

Interference with a Member

13. A *person* must not impede or interfere with or hinder a *member* in the performance of the *member's* duties.

Interference with Equipment

14. (1) A *person* must not damage, destroy or alter any *apparatus* or facility used or occupied by the *Department*.
- (2) A *person* must not drive a vehicle over any *equipment* without the permission of the highest ranking *member* present at an *incident*.
- (3) A *person* must not obstruct or otherwise interfere with access roads or streets or other approaches to any fire alarm, fire hydrant, cistern or body of water designated for firefighting purposes or any connections provided to a fire main, pipe, standpipe, sprinkler system, cistern or other body of water designated for firefighting purposes.

False Representation

15. A *person* must not falsely represent themselves as a *member* or wear or display any *Department* badge, cap, button, insignia or other paraphernalia for the purpose of such false representation.

PART IV

REPORTING OF HAZARDS

16. The owner or authorized agent of any property damaged by fire must immediately report to the *Fire Chief* particulars of the fire which are satisfactory to the *Fire Chief*.
17. (1) The owner or authorized agent of any property containing any type of *dangerous goods* which sustains accidental or unplanned release of the *dangerous goods* must immediately report to the *Fire Chief* particulars of the release which are satisfactory to the *Fire Chief*.
- (2) Any *person* releasing, causing or permitting the accidental or unplanned release of any type of *dangerous good* must immediately report to the *Fire Chief* particulars of the release which are satisfactory to the *Fire Chief*.

PART V

OPEN AIR FIRE PERMITS

Prohibition

18. (1) A *person* must not build, ignite or allow an *open air fire* unless that *person* possesses a valid and subsisting *open air fire* permit issued by the *Fire Chief*.
- (2) A *property owner* must ensure that there is a valid and subsisting *open air fire* permit in place for any *open air fire* on that *property owner's* property.
- (3) A *person* must not build, ignite or allow an *open air fire* in a manner contrary to the terms and conditions set out in the *open air fire* permit relating to that fire.
- (4) A *person* must not build, ignite or allow a fire using solid fuel for the purposes of ground thawing.

Permits

19. (1) The *Fire Chief* may:
- (a) issue *open air fire* permits;
- (b) issue an *open air fire* permit on an annual or one-time basis;

- (c) charge a fee for the issuance of an *open air fire* permit;
 - (d) amend or revoke an *open air fire* permit at any time;
 - (e) require a site inspection before issuing an *open air fire* permit;
 - (f) require a site inspection prior to any burn conducted pursuant to an *open air fire* permit;
 - (g) charge a fee for any inspections relating to an *open air fire* permit; and
 - (h) may attach terms and conditions to an *open air fire* permit.
- (2) In the case of an annual *open air fire* permit containing terms and conditions meant to apply to all fires burned pursuant to the permit, the *Fire Chief* may waive terms and conditions in relation to a specific fire or fires, upon application in writing by the *person* to which the *open air fire* permit has been issued.
- (3) The *Fire Chief* is not required to issue an *open air fire* permit unless the required fee for the permit has been paid by the applicant for the permit.
- (4) Fees paid for an *open air fire* permit are not refundable.
- (5) *Open air fire* permits are not transferable.
- (6) If, in the sole opinion of the *Fire Chief*, a fire poses a danger or does not comply with the requirements of this Bylaw or the terms and conditions set out in an *open air fire* permit, the *Fire Chief* may:
- (a) extinguish the fire;
 - (b) modify the fire in any way; or
 - (c) take any other step the *Fire Chief* deems necessary to ensure public safety.

PART VI

FIRE BANS

20. (1) Notwithstanding any provision in this or any other bylaw, the *Fire Chief* may declare a partial or complete ban of any burning of any kind in the *City*.
- (2) When determining whether to declare a complete ban on burning, the *Fire Chief* may take into consideration any or all of the following factors:
- (a) the air quality index;
 - (b) levels of recent precipitation;

- (c) water shortages or restrictions;
 - (d) availability of firefighters and *equipment*; and
 - (e) the overall fire danger.
- (3) When a fire ban has been declared, a *person* must not build, ignite or allow a fire contrary to any restriction set out in the declaration of the fire ban.
- (4) A *member* or an *officer* may direct a *person* to extinguish any fire when a fire ban is in place.
- (5) A *person* who fails to comply with the direction of a *member* or an *officer* to extinguish a fire during a fire ban commits an offence and the *member* or *officer*, as the case may be, may extinguish the fire.

PART VII

FEES

Fees for Inspections, Permits and Administration

21. The *Fire Chief* may set and charge fees relating to:
- (a) inspection services provided by the *Department*;
 - (b) permits issued by the *Department*;
 - (c) searches and reports provided by the *Department*;
 - (d) any material or service provided, or permit issued, by the *Department* pursuant to the *Safety Codes Act* or the *Fire Code*; and
 - (e) any other service provided by the *Department*.

Fees for Other Services

22. In addition to the fees set out in section 21, the *Fire Chief* may charge fees for the following services provided by the *Department* based on the actual cost of providing the service, plus an administration fee:
- (a) provision of *members* or *apparatus* on standby;
 - (b) *emergency* response or other service provided outside of *City* limits;
 - (c) training services provided by the *Department*;
 - (d) rental of *Department* facilities.

Extraordinary and Unusual Costs

23. (1) Where the actual cost of providing a service exceeds the amount set by the *Fire Chief* pursuant to section 21 because providing the service took an unusually long time or required specialized *equipment, apparatus* or materials, or for any other reason outside of the *Department's* control, the *Fire Chief* may charge an additional fee.
- (2) The additional fee provided for in subsection (1) must reflect the actual cost of providing the service and a reasonable administrative fee.
- (3) Where the *Department* performs any *emergency* or non-*emergency* service that requires *apparatus*, materials or labour that is not usually required to perform that service, the *Fire Chief* may charge a fee reflecting the additional costs to perform the service.
- (4) If *apparatus* is damaged, or contaminated by a *dangerous good*, in the course of the *Department* providing any *emergency* or non-*emergency* service, the *Fire Chief* may charge a fee reflecting the cost of the damage.
- (5) The fees provided for by this section may be charged to a *registered owner*, a *property owner*, a *business owner*, *property manager*, the *person* requesting the service, or the *person* who benefits from the service.

Payment of Fees

24. (1) Any *person* who is charged a fee pursuant to this Bylaw must pay the fee within the time specified and in the manner specified on the invoice setting out the fee.
- (2) Any fee that is not paid as specified on the invoice setting out the fee becomes a debt owing to *City* by the *person* to whom the fee was charged.

PART VIII

FALSE ALARMS

Fees for False Alarms

25. (1) The *Fire Chief* may charge a fee for responding to a *false alarm*, as set out in Schedule "A" to this Bylaw, where the *Department* responds to:
- (a) more than one *false alarm* at the same *structure* within the same calendar year;
- (b) more than one *false alarm* from the same *fire alarm system* within the same calendar year; or
- (c) more than one *false alarm* from the same parcel of land within the same calendar year where there is more than one *structure* on that parcel of land.

- (2) Where the *Department* responds to any alarm that is as a result of a *security alarm system* being routed to the *Department*, the *Fire Chief* may charge a fee for responding as set out in Schedule "A" to this Bylaw.
 - (3) Where the *Department* responds to an alarm as set out in subsection (1) or (2) and the *business owner, property owner or property manager* does not provide access to the interior of the *structure* within 30 minutes of the arrival of the *Department* at the *structure*, the *Fire Chief* may charge, in addition to the fee set out in Schedule "A", an additional standby fee for the period of time before access is provided to the interior of the *structure* based on the actual cost plus an administration fee.
 - (4) Subsection (3) does not apply if a *business owner, property owner or property manager* has installed a lock-box in an accessible location at the *structure* and if that lock-box contains current keys or codes to provide access to the *structure*, and access to the lock box is known to the *Department*.
26. (1) If the *Department* is dispatched to respond to an alarm but is notified that the alarm is a *false alarm* before any *Department* vehicle has responded, the fee set out in Schedule "A" for that response shall be reduced by 50%.
- (2) For greater certainty, the 50% fee reduction referred to in subsection (1) shall apply only to *fire alarm systems*, and not to *false alarms* from *security alarm systems* that are routed to the *Department*.
27. The fees provided for by this Part may be charged to a *property owner, business owner, alarm services provider, property manager or person* responsible for the *false alarm*.
28. (1) Where a *person* who has paid a fee for a *false alarm* pursuant to this Part has made improvements to the alarm system or in some other way has taken steps to ensure that *false alarms* do not occur at the *structure* to which the *false alarms* relate, that *person* may apply to the *Fire Chief* for a rebate of the fee.
- (2) An application for a fee rebate pursuant to subsection (1) must be made in writing and within 60 days of the fee being charged.
- (3) Despite subsection (2), where fees for a *false alarm* have been imposed more than once during a calendar year, a *person* may apply for a rebate for all fees imposed in that calendar year within 60 days of the end of the calendar year.
- (4) Where the *Fire Chief* is satisfied that the improvements or other steps taken by an applicant for a fee rebate are likely to decrease the likelihood of a *false alarm*, the *Fire Chief* may rebate up to 50% of the fees already paid by that *person*.
- (5) Routine maintenance or annual servicing of a *fire alarm system* does not constitute an improvement for the purposes of subsection (4).

PART IX
OFFENCES AND PENALTIES

Offences

29. Any *person* who contravenes any provision of this Bylaw by:
- (a) doing any act or thing which the *person* is prohibited from doing, or
 - (b) failing to do any act or thing the *person* is required to do,
- is guilty of an offence.

Violation Ticket

30. (1) Where an *officer* reasonably believes that a *person* has contravened any provision of this Bylaw, the *officer* may commence proceedings against the *person* by issuing a violation ticket pursuant to Part 2 of the *Provincial Offences Procedure Act*, R.S.A. 2000, c.P-34, allowing for the voluntary payment in the amount of the specified penalty as provided in this Bylaw in respect of the said offence.
- (2) This section does not prevent any *officer* from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the *Provincial Offences Procedure Act*, or from laying an information in lieu of issuing a violation ticket.

Penalties

31. (1) Every *person* who is convicted of an offence pursuant to this Bylaw is subject to one of the following penalties:
- (a) a fine amount of not more than \$10,000.00;
 - (b) imprisonment for not more than 1 year;
 - (c) both (a) and (b).
- (2) The specified penalty on conviction of an offence pursuant to this Bylaw is the fine amount set out in Schedule "B" in respect of the offence.
- (3) The minimum penalty on conviction of an offence pursuant to this Bylaw is the fine amount set out in Schedule "B" in respect of the offence.
- (4) Despite subsection (2) and subsection (3), a *person* who is convicted for a second offence of the same provision within a 12 month period is liable on conviction:
- (a) for twice the fine amount of the specified penalty set out in Schedule "B";
- or

- (b) for twice the fine amount of the minimum penalty set out in Schedule “B”.
- (5) Despite subsection (2) and subsection (3), a *person* who is convicted for a third offence of the same provision within a 12 month period is liable on conviction:
 - (a) for three times the fine amount of the specified penalty set out in Schedule “B”;
 - (b) for three times the fine amount of the minimum penalty set out in Schedule “B”.
- (6) On conviction of an offence that is of a continuing nature, the penalty is the fine amount set out in Schedule “B” of this Bylaw in respect of the offence for each day, or part of a day, that the offence continues.

PART X

MISCELLANEOUS

Consequential Amendments

32. Bylaw 5M2004, the Community Standards Bylaw, as amended, is hereby further amended as follows:

- (a) section 1(2)(h) is deleted;
- (b) in section 12, the words “Commercial Burning Bylaw” are deleted and replaced with “Fire Operation and Fees Bylaw xxM2014”;
- (c) section 18 is deleted; and
- (d) In Schedule “A” – Specified and Minimum Penalties, the following are deleted under the headings indicated:

SECTION	OFFENCE	MINIMUM PENALTY	SPECIFIED PENALTY
“18(3)	Fire during Fire Ban	\$250	\$1000
	“Young Person” (as defined in the Youth Justice Act, R.S.A. 2000, c. Y-1, as amended) building or igniting a fire during a Fire Ban	\$250	\$1,000
18(5)	Fail to comply with direction during a Fire Ban	\$2,500	\$5,000
	“Young Person” (as defined in the Youth Justice Act, R.S.A. 2000, c. Y-1, as amended) failing to comply with direction during a fire ban	\$500	\$1,000”

Repeal

33. The following bylaws are repealed:

- (a) Bylaw 37M84, The Calgary Fire Department Bylaw;
- (b) Bylaw 40M2003, The Fire Fees Bylaw;
- (c) Bylaw 48M2003, The Commercial Burning Bylaw; and
- (d) Bylaw 7342, The 1968 Calgary Fire Prevention By-law.

Commencement of Bylaw

34. This Bylaw comes into force on January 1, 2015.

SCHEDULE "A"

FALSE ALARMS

<u>Service</u>	<u>Fee</u>	
<i>False Alarms</i>	Second <i>false alarm</i>	\$300
	Third <i>false alarm</i>	\$600
	Fourth or greater <i>false alarm</i>	\$1000 (includes mandatory Fire Inspection)
Security alarms routed to the <i>Department</i>	\$1000 per response	

SCHEDULE "B"

MINIMUM AND SPECIFIED PENALTIES

<u>Section</u>	<u>Offence</u>	<u>Minimum Penalty</u>	<u>Specified Penalty</u>
11(2)	Enter area around an <i>incident</i>	\$250	\$500
12(2)	Fail to comply with an order to vacate	\$250	\$500
13	Impede, interfere or hinder a <i>member</i>	\$250	\$500
14(1)	Damage, destroy or alter <i>Department apparatus</i> or facility	\$250	\$500
14(2)	Drive vehicle over <i>equipment</i>	\$250	\$500
14(3)	Obstruct access	\$250	\$500
18(1)	Build, ignite or allow <i>open air fire</i> without permit	\$250	\$500
18(3)	Build, ignite or allow <i>open air fire</i> contrary to permit	\$250	\$500
18(4)	Ground thawing fire using solid fuel	\$250	\$500
20(3)	Build or ignite fire contrary to fire ban	\$250	\$1000
20(5)	Fail to comply with direction to extinguish a fire during a fire ban	\$2500	\$5000