

BYLAW NUMBER 48M2003

BEING A BYLAW OF THE CITY OF CALGARY TO REGULATE COMMERCIAL BURNING

WHEREAS the *Municipal Government Act* enables a Council to pass bylaws respecting the safety, health and welfare of people and the protection of people and property; and respecting nuisances and activities in or near places open to the public;

AND WHEREAS the *Municipal Government Act* enables a Council to pass bylaws which regulate, provide for a system of permits, charging fees for permits and set terms and conditions on permits granted;

AND WHEREAS it is desirable to create regulations providing for control and safety around open burning sites and events to which the public have access;

AND WHEREAS it is desirable to create regulations providing for control and safety around ground thawing sites, that balance the health, safety and convenience concerns of the public with the requirements of a necessary activity in the construction trade;

NOW THEREFORE THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

INTERPRETATION AND DEFINITIONS

1. (1) This Bylaw may be referred to as "the Commercial Burning Bylaw".
- (2) In this Bylaw:
 - (a) "Fire For Commercial Purposes" includes a Ground Thawing Fire, a fire for training purposes, and a fire associated with a special event or production;
 - (b) "Ground Thawing Fire" means a coal fire in contact with the ground;
 - (c) "Ground Thawing Season" means from the 1st day of October of one Calendar Year to the 30th day of April the following calendar year;

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- (d) "Permit Holder" means any Person to whom a permit has been issued pursuant to this Bylaw;
 - (e) "Person" includes a corporation and other legal entities;
 - (f) "Property Owner" includes the Person on title for a parcel of land at Land Titles, a tenant, and a Person in apparent control of a parcel of land;
- (3) Where this Bylaw enables or authorizes the Fire Department to do anything, that thing may be done by a person employed by the Fire Department whose duties, as determined by the Fire Chief or the Chief Executive Officer of The City of Calgary, include doing that thing.
 - (4) Nothing in this Bylaw relieves a Person from complying with any Federal or Provincial law or regulation, other bylaw or any requirements of any lawful permit, order or licence, and without restricting the generality of the preceding, nothing in this Bylaw relieves a person from complying with the provisions of the *Safety Codes Act* (R.S.A. 2000, chapter S-1), and the *Environmental Protection and Enhancement Act* (R.S.A. 2000, chapter E-12).
 - (5) Where this Bylaw refers to another Act, Regulation or agency, it includes reference to any Act, Regulation or agency that may be substituted therefore.
 - (6) 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 shall remain valid and enforceable.

PROHIBITION AND EXCEPTIONS

- 2. (1) No Person shall build, ignite or allow open burning of any Fire For Commercial Purposes unless that person possesses a valid and subsisting commercial burning permit issued by the Fire Department.
- (2) A Property Owner shall ensure that there is a valid and subsisting permit in place for any open fire on that Property Owner's property.

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- (3) No person shall build, ignite or allow open burning of any Fire For Commercial Purposes in a manner contrary to the terms and conditions set out in the commercial burning permit relating to that Fire.

POWERS OF THE FIRE DEPARTMENT

3. (1) The Fire Department may:
 - (a) issue commercial burning permits;
 - (b) issue a permit on an annual or one-time basis;
 - (c) issue a permit for a Ground Thawing Season;
 - (d) charge a fee for the issuance of a permit;
 - (e) amend or revoke a permit at any time;
 - (f) require a site inspection before issuing a commercial burning permit;
 - (g) require a site inspection prior to any burn conducted pursuant to a commercial burn permit; and
 - (h) charge a fee for any inspections relating to a permit.
- (2) The Fire Department may attach terms and conditions to the use of a commercial burning permit including terms and conditions:
 - (a) requiring any or all fires to be barricaded;
 - (b) requiring signs to be posted at a fire site, and establishing the content of such signs;
 - (c) requiring a Permit Holder to notify members of the public likely to be affected by a fire up to 72 hours prior to igniting the fire;
 - (d) requiring written notice to the Fire Department, up to 72 hours prior to igniting a fire;
 - (e) restricting the times of day when a fire may be started or burned;

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- (f) requiring the use of certain methods to ignite fires;
 - (g) requiring the presence at a fire site of a means to extinguish the fire and first aid equipment;
 - (h) requiring a minimum level of surveillance of the fire by the Permit Holder;
 - (i) specifying the size, number and material of any receptacles required to contain the fire;
 - (j) requiring the use of protective equipment and clothing; and
 - (k) specifying the steps that the Permit Holder must take to clean up or remediate the site after the fire.
- (3) In the case of an annual or seasonal permit containing terms and conditions meant to apply to all fires burned pursuant to the permit, the Fire Department may waive terms and conditions in relation to a specific fire or fires, upon application in writing by the Permit holder.
- (4) The Fire Department is not required to issue a commercial burning permit unless the required fees for the permit has been paid by the applicant for the permit.
- (5) Fees paid for commercial burning permits are not refundable.
- (6) Commercial burning permits are not transferable.
- (7) If, in the sole opinion of the Fire Department, a fire poses a danger or does not comply with the requirements of this Bylaw or the terms and conditions set out in a commercial burning permit, the Fire Department may:
- (a) extinguish the fire;
 - (b) modify the fire in any way; or
 - (c) take any other step it deems necessary to ensure public safety.

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GENERAL PENALTY PROVISION

4. (1) 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.
- (2) Any Person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding \$10,000.00 and in default of payment of any fine imposed, to a period of imprisonment not exceeding six (6) months.

VIOLATION TICKETS AND PENALTIES

5. (1) Where an Officer 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 the *Provincial Offences Procedures Act*, R.S.A. 2000 C. P-24.
- (2) The specified penalty payable in respect of a violation of this Bylaw is \$500.00.
- (3) The minimum penalty to be applied to a Person convicted of an offence under this Bylaw is \$250.00.
- (4) This section shall not prevent any Officer from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the *Provincial Offences Procedures Act*, R.S.A. 2000 C. P-24, or from laying an information in lieu of issuing a violation ticket.
- (5) The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a Person from the necessity of paying any fees, charges or costs for which that Person is liable under the provisions of this Bylaw or any other bylaw.

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CONSEQUENTIAL AMENDMENTS

6. Bylaw 41M91, being a Bylaw of the City of Calgary to Regulate Open Burning, as amended, is hereby further amended by:

(a) deleting section 1.1 and substituting the following therefore:

"1 (1) No persons shall build, ignite or allow open burning of any fire unless this or another bylaw specifically permits the fire.

(2) A person may build or ignite a fire on that person's property if the fire is contained within a non-combustible receptacle." ; and

(b) repealing sections 1.2, 1.3 and 1.4.

7. This Bylaw comes into force on January 1, 2004.

READ A FIRST TIME THIS _____ DAY OF _____, 2003.

READ A SECOND TIME THIS _____ DAY OF _____, 2003.

READ A THIRD TIME
AND PASSED THIS _____ DAY OF _____, 2003.

MAYOR

DATED THIS ____ DAY OF _____, 2003.

CITY CLERK