

BYLAW 5858

A BYLAW OF THE CITY OF LETHBRIDGE
TO REGULATE OPEN AND COMMERCIAL BURNING
IN THE CITY OF LETHBRIDGE

WHEREAS the *Municipal Government Act* enables a Council to pass bylaws for the extinguishing of fires, the preservation of life and property and the protection of persons from injury or destruction by fire;

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, or burning is allowed for recreational purposes on private land;

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 LETHBRIDGE ENACTS AS FOLLOWS:

1. INTERPRETATION & DEFINITIONS

This Bylaw may be cited as the “*Open Burning Bylaw*” of the City of Lethbridge.

- a) “Combustible Debris” means debris from demolition, dry vegetation, ground cover from lands, or forestry.
- b) “Commercial Purposes” means a purpose related to a commercial activity and includes but is not limited to a Ground Thawing Fire, the burning of Combustible Debris, a fire for training purposes and a fire associated with a special event or production.
- c) “Designated Officer” means a bylaw enforcement officer, peace officer, police constable or any Fire Department official appointed by the City to enforce this bylaw.

- d) "Fire Chief" means the member appointed as head of the Fire Department or their designate.
- e) "Fire Department" means the City of Lethbridge Fire & Emergency Services Department.
- f) "Fire Pit" means a permanently affixed or Portable Fire Receptacle made of non combustible material.
- g) "Fire Place" 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) "Fire Safety Codes Officer" means an individual designated as a Fire Safety Codes Officer pursuant to the *Safety Codes Act*.
- i) "Ground Thawing Fire" means a coal fire in contact with the ground.
- j) "Ground Thawing Season" means from the 1st day of October of one calendar year to the 30th day of April the following calendar year.
- k) "Municipal Tag" means a ticket alleging an offence, issued pursuant to the authority of a bylaw of the City of Lethbridge.
- l) "Open Burning Permit" means a permit issued by the Fire Department for a fire for Commercial Purposes.
- m) "Owner" means the person registered on the title at the Land Titles Office.
- n) "Permit Fee" means an amount to be charged and collected for an Open Burning Permit.
- o) "Person" means both the Owner and the occupant of a premises.
- p) "Portable Fire Receptacle" means an outdoor fire receptacle which is not permanently affixed.

2. POWERS OF THE FIRE DEPARTMENT REGARDING OPEN BURNING PERMITS

2.1. The Fire Department may:

- a) issue an Open Burning Permit;
- b) issue an Open Burning Permit on an annual or fixed date basis;
- c) issue an Open Burning Permit for a Ground Thawing Fire during the Ground Thawing Season;

- d) charge a Permit Fee for the issuance of a permit;
- e) amend or revoke an Open Burning Permit at any time;
- f) require a site inspection before issuing an Open Burning Permit;
- g) charge a fee for any inspections relating to an Open Burning Permit;
- h) issue an Open Burning Permit to allow for the kindling of a fire during restricted hours.

2.2. The Fire Department may attach terms and conditions for the use of an Open Burning Permit including but not limited to:

- 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 a 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;
- 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;
- k) require the posting of signs on public thoroughfares advising of the danger of limited visibility from burning and smoke; and
- l) specifying the steps that the permit holder must take to clean up or remediate the site after the fire.

2.3. In the case of an annual or fixed date 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.

2.4. The Fire Department may refuse, revoke or suspend an Open Burning Permit which in the opinion of a Fire Safety Codes Officer or Designated Officer fails to meet the requirements of this bylaw, or where Permit Fees have not been paid.

2.5. If, in the sole opinion of a Fire Safety Codes Officer or Designated Officer, 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 Burning Permit, the Safety Codes Officer or Designated Officer may:

- a) extinguish or cause the fire to be extinguished;

- b) modify the fire in any way;
- c) take any other steps deemed necessary to ensure public safety; or
- d) take any other steps deemed necessary to limit the spread of a fire

3. PERMIT REGULATIONS

- 3.1 The Owner of a commercial property shall have an existing and current Open Burning Permit prior a fire being kindled on such commercial property.
- 3.2 The Owner or occupant of a premises where a fire is kindled shall be responsible to obtain or present an Open Burning Permit upon request to a Fire Safety Codes Officer or Designated Officer.
- 3.3 Open Burning Permits are not transferable.
- 3.4. Permit Fees are not refundable.

4. RESTRICTIONS APPLYING TO RESIDENTIAL FIRES ALLOWED PURSUANT TO THIS BYLAW

- 4.1 No person shall burn, at any time, in a Fire Pit or Fire Place any material other than clean dry wood. Without limiting the generality of the foregoing no person shall burn in a Fire Pit or Fire Place the following specific items:
 - a) treated or painted lumber;
 - b) lumber products containing glue or resin;
 - c) wet or unseasoned wood;
 - d) leaves, brush or yard waste;
 - e) garbage;
 - f) rubber, tires or plastic; or
 - g) any animal carcass or part thereof.

5. FIRE PIT AND FIRE PLACE REGULATIONS

- 5.1. A person may build, ignite, or allow a fire on a premises in a Fire Pit or Fire Place as defined in this Bylaw provided the Fire Pit or Fire Place:
 - a) is constructed of non-combustible material;
 - b) has an open flame area that does not exceed 1 meter at its widest point;
 - c) does not have walls which exceed 0.75 meters in height measured from grade to the top of the wall of the Fire Pit or Fire Place excluding chimneys;
 - d) is set upon or built into the bare ground or a non-combustible material such as brick or stone;

- e) is situated at least 1.5 meters from any house, garage or similar structure including wooden decks, porches and similar amenity space attached to a structure measured from the part of the Fire Pit or Fire Place which is closest to the structure or amenity space;
- f) is situated at least 1.5 meters from any other combustible material measured from the part of the Fire Pit which is closest to the combustible material; and
- g) is not located directly under any tree or overhanging branches.

5.2. A person may build, ignite or allow a fire in a Portable Fire Receptacle on a wooden deck providing:

- a) a non-combustible material such as brick or stone is placed between the Portable Fire Receptacle and the wooden deck and extends 450mm beyond the receptacle measured plumb with the outside edges;
and
- b) the Portable Fire Receptacle is situated at least 1.5 meters from any house, garage, similar structure or other combustible material, measured from the part of the receptacle which is closest to the structure or combustible material.

5.3. Every person who builds, ignites or allows a fire in a Fire Pit or Fire Place shall:

- a) ensure that the fire is not left unsupervised at any time and that:
- b) a means of extinguishing the fire is kept on hand at all times while the fire is burning;
- c) the flames from the fire do not exceed 1 meter in height at any time;
- d) no person shall kindle a fire when the wind is blowing or gusting at or above 30 KMH; and
- e) the fire is extinguished completely, leaving only cold ashes, prior to leaving the fire.

5.4. No person shall kindle a fire in a Fire Pit or Fire Place between the hours of 01:30 hrs. (1.30 AM) and 08:00 hrs. (8.00 AM)

6. FIRE BANS

- 6.1 Notwithstanding any provision in this or any other bylaw, the Fire Chief may declare a complete ban of any burning of any kind in the City of Lethbridge.
- 6.2 Notwithstanding any provision in this or any other bylaw, the Fire Chief may declare a partial fire ban for specified areas of the City of Lethbridge.

- 6.3 When determining whether to declare a complete or partial ban on burning, the Fire Chief will 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) the overall fire danger at the location the fire is being kindled;
 - e) when Fire Department resources are deployed in a manner which would make additional responses problematic.
- 6.4. No person shall build, ignite or allow a fire to be kindled in the City of Lethbridge in contravention of a complete or partial ban declared pursuant to sections 6.1 & 6.2.
- 6.5. A member of the Fire Department or Designated Officer may direct a person to extinguish any fire which is in contravention of a complete or partial fire ban.
- 6.6. A person who fails to comply with the direction of a member of the Fire Department or Designated Officer
- a) to extinguish a fire during a fire ban commits an offence; and
 - b) the member of the Fire Department or the Designated Officer, as the case may be, may extinguish the fire.

7. PROHIBITIONS AND EXCEPTIONS

- 7.1. Except for a fire which is allowed by this bylaw, or another bylaw of the City of Lethbridge, no person shall burn, or allow to be burned, a fire on a premises that does not comply with the requirements of this bylaw.
- 7.2. No person shall build, ignite or allow open burning of any fire for Commercial Purposes unless that person possesses a valid and subsisting Open Burning Permit issued by the Fire Department.
- 7.3. 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 Open Burning Permit relating to that fire.
- 7.4. No person shall ignite or allow open burning of any fire when wind is blowing or gusting at or above 30 KMH.
- 7.5. If, in the opinion of a Fire Safety Codes Officer, Designated Officer or Fire Department member a fire poses a danger or does not comply with the

requirements of this bylaw, such Fire Safety Codes Officer, Designated Officer or Fire Department member may extinguish the fire and take any other steps deemed necessary to ensure that the fire and site of the fire no longer pose a danger.

8. PENALTY PROVISIONS

8.1. Violations

Where any Bylaw Enforcement Officer or Peace Officer or Designated Officer believes that any person has committed a breach of any provision of this bylaw he may serve upon such persons or the Owner of the property on which the fire was kindled a Municipal Tag or he may commence proceedings by issuing a summons by means of a Violation Ticket in accordance with the "Provincial Offences Procedure Act" Alberta.

8.2. A Municipal Tag or Violation Ticket shall be deemed to have been sufficiently served;

- a) if served personally to the accused; or
- b) if served by registered mail; or
- c) if left at the accused usual place of abode with an occupant thereof who appears to be at least eighteen (18) years of age; or
- d) where the accused is an association, partnership or corporation served by registered mail or if left with a person who appears to be in partnership or corporation.

8.3. Upon production of any such Municipal Tag or Violation Ticket within twenty-one (21) days from the date of services of such notice, together with the payment of the sum specified in Schedule "A", to a person authorized by the City of Lethbridge or Province of Alberta to receive such payment, an official receipt for such payment shall be issued, and subject to the provisions of this Section, such payment shall be accepted in lieu of prosecution. If the person upon whom any such Municipal Tag or Violation Ticket is served fails to pay the said sum within the time allotted, the provisions of this Section shall no longer apply.

8.4. 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.

8.5. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of no more than TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS and in default of payment is liable to imprisonment for a term not exceeding six (6) months.

8.6. 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 from which he is liable under the provisions of this Bylaw.

9. Bylaw 5431 is hereby repealed.

10. This Bylaw shall come into force and effect on the * day of *, 2014 OR upon the date of final passing thereof.

READ A FIRST TIME this 24 day of January, 2014

C. A. Spearman
MAYOR

Shepherd
CITY CLERK

READ A SECOND TIME this 30 day of March, 2014

C. A. Spearman
MAYOR

Shepherd
CITY CLERK

READ A THIRD TIME this 30 day of March, 2014

C. A. Spearman
MAYOR

Shepherd
CITY CLERK

SCHEDULE A

Specified penalties

<u>Section</u>	<u>Offence</u>	<u>Penalty</u>
4.1	Burning prohibited material	\$150.00
5.4	Burning during Prohibited Hours	\$150.00
6.4	Burning during Fire Ban	\$200.00
7.1	Failure to Comply with Open Burning regulations	\$150.00
7.2	Burning Without a Valid Permit	\$150.00
7.3	Failure to Comply With an Open Burning Permit	\$150.00
7.4	Burning when Winds Exceed 30 KMH	\$150.00