

COUNTY OF ST. PAUL NO. 19

BY-LAW NO. 1360

A By-law of the County of St. Paul No. 19, in the Province of Alberta relating to open air fires and removal of hazards and unhealthy and unsafe conditions related to open air fires for the safety, health and welfare of people and the protection of people and property.

OPEN AIR FIRE BYLAW

WHEREAS Section 7 of the *Municipal Government Act*, S.A. 1994, c. M-26.1, as amended, (hereafter the "*Municipal Government Act*") provides that Council may pass bylaws respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS Section 5 of the *Municipal Government Act* provides that a municipality has the powers, duties and functions given to it under the *Municipal Government Act* and other enactments;

AND WHEREAS Section 203 of the *Municipal Government Act* provides that Council may by bylaw delegate any of its powers, duties or functions to a Chief Administrative Officer, and whereas Section 209 of the *Municipal Government Act*, provides that a Chief Administrative Officer may delegate any of his powers, duties or functions to a designated officer or an employee of the municipality;

AND WHEREAS Section 551 of the *Municipal Government Act* provides that a municipality may take whatever actions or measures are necessary to eliminate an emergency, and the expenses and costs of the actions or measures, including the remuneration to any person providing labour, services, equipment or materials are an amount owing to the municipality by the person who caused the emergency;

AND WHEREAS Section 553 of the *Municipal Government Act* provides that Council may add unpaid expenses, costs and remuneration necessary to eliminate the emergency which are owing to the municipality to the tax roll of a parcel of land if the parcel's owner caused the emergency and the cause of the emergency was located on all or a part of the parcel;

AND WHEREAS Section 553(g) of the *Municipal Government Act* provides that a municipality may make the owner of a parcel of land liable for the cost and expenses related to the municipality for extinguishing fires on a parcel of land, unpaid costs and expenses for extinguishing fires on the parcel of land and those costs may be added to the tax roll of the parcel of land;

AND WHEREAS the County of St. Paul No. 19 deems it necessary and expedient to provide for a fee for service for the provision of certain services and to provide for fair and just recovery of those costs and expenses;

NOW THEREFORE the Council of the County of St. Paul No. 19, in Council duly assembled, enacts as follows:

CITATION

1. This bylaw may be cited as the "Open Air Fire Bylaw".

DEFINITIONS

2. In this bylaw, including this section:
 - a. "**Chief Administrative Officer**" means the person appointed to the position of Chief Administrative Officer pursuant to the *Municipal Government Act*, or a designated officer or employee of the County to whom the Chief Administrative Officer delegates his functions pursuant to this bylaw;
 - b. "**Council**" means the Council of the County of St. Paul No. 19;
 - c. "**County**" means the municipality of the County of St. Paul No. 19 and the area contained within its boundaries as the context requires;
 - d. "**Emergency**" includes a situation where there is potential imminent danger to public safety or potential serious harm to property related to an Open Air Fire.
 - e. "**Fire Hazard**" means an emergency or extraordinary or unhealthy or unsafe circumstances or conditions related to an Open Air Fire that may cause harm to the safety, health and welfare of the people or property if such circumstances are not rectified or eliminated immediately, or if immediate steps are not taken to rectify or eliminate the circumstances;
 - f. "**Open Air Fire**" means any outdoor fire within the geographic boundaries of the County where the flames of the fire are exposed to the air or the atmosphere and includes a camp fire, fire contained in a pit, grass fire, brush fire, a fire for the burning of coal, wood or other burnable substance, a fire which burns any burnable materials such as straw, stubble, leaves, brush, wood shavings, saw dust, wood, gas and oil and a fire which burns any combustible substance, but does not include a barbeque.
 - g. "**Person**" includes an individual, a partnership and a corporation.

DELEGATION TO CHIEF ADMINISTRATIVE OFFICER

3. Council hereby delegates to the Chief Administrative Officer the authority to decide whether a Fire Hazard or Emergency exists and the authority to decide whether equipment, materials, labour and services are required to fight, extinguish or control a fire.
4. Council hereby delegates to the Chief Administrative Officer the authority to decide whether Open Air Fires are to be restricted at anytime in the County.

OPEN AIR FIRES

5. No person shall permit an Open Air Fire upon land owned, occupied, or which is under his or her control within the County, unless such Open Air Fire is permitted under the *Forest and Prairie Protection Act*, R.S.A. 1980, c. F-14, as amended (hereafter "*Forest and Prairie Protection Act*"), and the fire does not cause a Fire Hazard or Emergency.

6. Every person who causes or is responsible for an Open Air Fire shall ensure, as far as it is reasonably practicable for him or her to do so, that:
 - a. The Open Air Fire is controlled at all times;
 - b. Sufficient precautions are taken keep the Open Air Fire under control at all times;
 - c. The Open Air Fire does not become out of control at anytime;
 - d. The Open Air Fire does not directly or indirectly cause unsafe or unhealthy conditions;
 - e. The Open Air Fire does not cause a Fire Hazard;
 - f. The Open Air Fire does not create an Emergency.
7. Notwithstanding paragraphs 5 and 6 herein, the Chief Administrative Officer may prohibit Open Air Fires in the County when in the opinion of the Chief Administrative Officer environmental or weather conditions are such that permitting Open Air Fires would have the potential of causing a fire or creating a Fire Hazard or Emergency.
8. When the Chief Administrative Officer prohibits Open Air Fires in the County, the Chief Administrative Officer shall immediately publish the prohibition on Open Air Fires:
 - a. In the next edition of a local newspaper; and
 - b. On a local radio station twice per day for three consecutive days.
9. When the Chief Administrative Officer prohibits Open Air Fires in the County, all permits for fires issued under the *Forest and Prairie Protection Act* are revoked.

POWERS AND FUNCTIONS

10. When a Fire Hazard or Emergency exists, or it is necessary to fight, extinguish or control a fire, the Chief Administrative Officer may take whatever actions or measures are necessary to rectify or eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire, including, but not limited to:
 - a. Providing County services, equipment, labour and materials to eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire;
 - b. Retaining persons to provide labour, services, equipment or materials to the County for the purpose of taking steps to eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire;
 - c. Temporarily closing a road which the County has the direction, control and management of until the Fire Hazard, Emergency or fire is eliminated;
 - d. Erecting signage or taking any other action to warn people about the Fire Hazard, Emergency or fire;

- e. Entering land or a structure at any reasonable hour, and carrying out inspection, enforcement or action required to eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire, or to take immediate steps to eliminate the situation;
- f. Requesting an owner or occupant of land or a structure to produce documents or do anything that will assist the Chief Administrative Officer in the inspection, enforcement or action required to eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire, or to take immediate steps to eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire, and the Chief Administrative Officer may make copies of any documents produced;
- g. Ordering an owner or occupant of land to take necessary steps to eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire in a manner and within a time specified by the Chief Administrative Officer;
- h. Ordering the necessary steps to be taken to eliminate the Fire Hazard, Emergency or to fight, extinguish or control the fire caused on land or a structure if the owner or occupant of the land or structure fails to abide by the Order of the Chief Administrative Officer.

RECOVERY OF COSTS

- 11. Where the County has taken any action whatsoever for the purpose of rectifying or eliminating the Fire Hazard, Emergency or to fight, extinguish or control the fire for the purpose of protecting the safety, health and welfare of the people and property, the County may, with respect to any expenses, costs and remuneration incurred by the County or paid to any person who provides labour, services, equipment or materials to the County, charge such expenses, costs and remuneration to the person who caused the fire, Fire Hazard or Emergency.
- 12. All expenses, costs and remuneration incurred by the County or paid to any person who provides labour, services, equipment or materials to the County related to the Fire Hazard, Emergency or to fight, extinguish or control the fire, which are charged to the person who caused the fire, Fire Hazard or Emergency, are a debt due to the municipality from the person who caused the fire, Fire Hazard or Emergency.
- 13. In the event that the amount charged pursuant to paragraph 12 of this Bylaw is not paid within ninety (90) days after mailing of a notice by the County to the owner, the amount due for such expenses, costs and remuneration unpaid shall be charged against the lands if the owner of the lands caused the fire, Fire Hazard or Emergency and the fire, Fire Hazard or Emergency was located on all or a part of the lands.
- 14. The owner of a parcel of land is liable for the costs and expenses related to the County extinguishing any fires on the parcel of land and for any unpaid costs and expenses for extinguishing fires on the parcel of land. In the event such foregoing costs and expenses are not paid within ninety (90) days after the mailing of a notice by the County to the owner, the amount due for such costs and expenses shall be added to the tax roll of the parcel of land by the County.

GENERAL

- 15. The owner, lessee, tenant, agent or occupant of property within the County shall do everything reasonably practicable to ensure that a Fire Hazard, Emergency or fire not in compliance with this Bylaw, does not exist or be allowed to continue to exist on that owner's, lessee's, tenant's, agents' or occupant's property.
- 16. Should any part of this Bylaw be found to have been improperly enacted, for any reason, then such part shall be severable from the remainder of this Bylaw and this 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.

OFFENCES & PENALTIES

- 17. A person that contravenes any provision of this Bylaw is guilty of an offence, and upon issuance of a ticket, is subject to a fine:
 - a. For a first offence, in an amount not to exceed \$5,000;
 - b. For a second and subsequent offences, in an amount not to exceed \$10,000.

EFFECTIVE DATE

- 18. This Bylaw shall come into force and effect on the final day of passing thereof.

Read a first time in Council this _____ day of _____, A.D. 2001

Read a second time in Council this _____ day of _____, A.D. 2001.

Read a third time in Council this _____ day of _____, A.D. 2001.

Reeve

County Administrator