

Strathcona County Bylaw 4-2021 Amendment Request

Priorities Committee Meeting

July 13, 2021

Routine Burning Causing Significant Smoke in Neighborhood

- Issue persists over multiple years
- Have initiated discussion with neighbor, response was non-participation, adheres to bylaw only, prefers not to engage with neighbors
- Another neighbor on the same street has also complained of smoke from this neighbor, is medically impacted by the frequent burning, now uses inhaler as a result of this ongoing issue

First Burning Complaint – April 2020

- Burning the previous summer by neighbor had been frequent. Initiated complaint with Strathcona County Fire Prevention in April 2020 when fire burned between 01:30-04:00 filled home with smoke through furnace fresh air intake. Awoke due to breathing difficulty.
- Request to Strathcona County stated: “Please do go ahead and conduct a site visit. This homeowner regularly burns fires in their yard during the summer months and now has increased the frequency to include winter months as well. The wood smoke is adversely impacting my health, especially since I was unable to shut down my furnace while they were burning during the hours of ~01:30-04:00 on Sunday morning (April 5, 2020).
- The yards in this area are not of an appropriate size to accommodate burning and it is unavoidable that the surrounding homes are filled with wood smoke, which is a significant health hazard.”

Response to First Burning Complaint – April 2020

- “A Fire Inspector attempted to conduct a site visit, however your neighbour was not home. He left behind a pamphlet on requirement of a recreational fire pit.
- Please call 9-1-1 if you feel your neighbour has an illegal recreational fire pit.”

Second Burning Complaint – June 2021

- Initiated a second burning complaint to Strathcona County due to frequent burning practices resulting in smoke impacting surrounding homes

Response to Second Burning Complaint – June 2021

- “Emergency Services Department have used multiple and reliable means to verify that the yard in question is large enough for a compliant recreational firepit. They have also confirmed that no infractions of the Burning Bylaw have been found. Fire Marshal is happy to speak with you to provide further details if you would like.
- **Unfortunately, there is not a path forward by way of the Burning Bylaw and I suggest transitioning to a “Community Mediation” approach to address your concerns with your neighbor.** Strathcona County provides coordination of mediation services to help neighbors clear up misunderstandings and build relationships so all can enjoy their properties. We have seen this process work very well in similar situations and the program’s success rate is quite high. This service can be accessed by email communitymediation@sccm.ca.
- Please call 9-1-1 if you feel your neighbour has an illegal recreational fire pit.”

Response to Second Burning Complaint – June 2021

- “The Fire Department has used the following methods to determine firepit compliance:
 1. Review of the Real Property Report to ensure adequate available space within the property
 2. ArcGIS review and measurements
 3. Visual inspection of the property
- As the fire pit is portable, it can be potentially be moved to different locations in the yard. They have confirmed that, in its current location, there is 3 meters clearance in all directions from combustible products. They have also confirmed that conversations with the owner have occurred and information regarding the stipulations set out by the bylaw have been reviewed with the tenant to ensure compliance. The Fire Marshal has assured me that a thorough investigation has been conducted and he remains open to speaking with you directly related to the measurement process, the Bylaw, and the property itself.”

Priority of Resident Health

- Recreational burning must not take priority over resident health
- Burning and smoke filling surrounding homes results in physical symptoms such as chest tightness, shortness of breath and burning/watering eyes

Comparison of Burning to Noise Bylaw

- Noise and smoke are similar – nuisance to surrounding residents
- Noise bylaw in place as sleep translates to health issue, therefore, the noise bylaw is enforced to protect residents
- Smoke is also a nuisance and health issue, however, there is no recourse for Strathcona County residents and enforcement for smoke generation and impact to residents is not conducted because the bylaw does not currently support it

Options

- **Response from Strathcona County: “Unfortunately, there is not a path forward by way of the Burning Bylaw and I suggest transitioning to a “Community Mediation” approach to address your concerns with your neighbor.”**
- Have followed the [Strathcona County “Good Neighbor” Tips](#), Community Mediation is not a “one size fits all” solution
- Have exercised the full extent of the existing bylaw framework, there are no options under the current version of [Strathcona County Bylaw 4-2021](#)
- **Request for amendment to Bylaw 4-2021 to allow for enforcement to occur when smoke impacts neighboring residents**

Surrounding Municipality Approaches to Issue of Smoke from Recreational Fires

City of Fort Saskatchewan – enforceable bylaw

[Community Standards Bylaw No. C1-21](#)

- “5. Nuisance Escaping Property (b) Dust and Airborne Matter: (i) No Person shall engage in any activity that is likely to allow dust or other airborne matter that may disturb any other Person to escape the Premises without taking reasonable precautions to ensure that the dust or other airborne matter does not escape the Premises.”
- “Schedule “A” Fines and Penalties 5(b)(i) Dust/Airborne Matter escaping Premises Specified Penalty \$250.00 Second & Subsequent Offence \$500.00”

Surrounding Municipality Approaches to Issue of Smoke from Recreational Fires

City of St. Albert – enforceable bylaw

- [Community Standards Bylaw 12/2010](#)
- “Land 5. (1) A person shall not cause or permit a nuisance to exist on land they own or occupy. (2) For the purpose of greater certainty, a nuisance with respect to land means a condition that, in the opinion of a Peace Officer, indicates a serious disregard for general maintenance and upkeep, whether or not the condition is detrimental to the surrounding area, some examples which include but are not limited to the following: (h) production of any generally offensive odours; (g) production of excessive dust, dirt or smoke”

Surrounding Municipality Approaches to Issue of Smoke from Recreational Fires

City of St. Albert (continued)

- [Community Standards Bylaw 12/2010](#)
- “PART 3 ENFORCEMENT Offence 9. (1) A person who contravenes any provision of this Bylaw is guilty of an offence. (2) When a corporation commits an offence under this bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence. (3) If a partner in a partnership is guilty of an offence under this bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.”
- Schedule 1 Specified Penalties OFFENCE SECTION PENALTY Cause/Permit nuisance on land owned/occupied 5(1) \$1000

Surrounding Municipality Approaches to Issue of Smoke from Recreational Fires

City of St. Albert (continued)

- [Community Standards Bylaw 12/2010](#)
- “Continuing Offence 10. In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate offence with respect to each day, or part of a day, during which the contravention continues, and a person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such separate offence.
- Fines and Penalties 11. A Person who is guilty of an offence under this Bylaw is liable (a) to a fine as prescribed in Schedule 1; or (b) on summary conviction, to a fine not exceeding \$10,000.00 or to an order of imprisonment for not more than 1 year, or both.”

Surrounding Municipality Approaches to Issue of Smoke from Recreational Fires

City of Edmonton – enforceable bylaw

- [Community Standards Bylaw 14600](#)
- “Nuisance Fire Section 29.1 (1) Notwithstanding anything in this Part, a person shall not cause or permit an outdoor fire on land they own or occupy that is reasonably likely to disturb the peace of any other individual. (2) In determining if an outdoor fire is reasonably likely to disturb the peace of any other individual, the following criteria may be considered: (a) demonstrated impact of the outdoor fire on health or wellbeing of others; (b) proximity of the outdoor fire to adjacent or affected properties; (c) duration of the outdoor fire; (d) date and time of the outdoor fire; (e) nature and intended use of the surrounding area; and (f) weather and ambient conditions.”

Surrounding Municipality Approaches to Issue of Smoke from Recreational Fires

City of Edmonton (continued)

- [Community Standards Bylaw 14600](#)
- “Nuisance Fire Order Section 29.2 (1) If a person contravenes section 29.1, the City Manager may, by written notice, restrict that person from causing or permitting outdoor fires on land they own or occupy in the manner directed by the City Manager. (2) A written notice may direct the person to: (a) limit the duration or frequency of outdoor fires on land they own or occupy; (b) only cause or permit outdoor fires on land they own or occupy at certain times; (c) modify or relocate a fire pit or fire place; or (d) undertake any other action reasonably required to ensure outdoor fires are not reasonably likely disturb the peace of others. (3) A person shall not contravene a written notice issued pursuant to subsection (1). (4) A person who receives a written notice pursuant to subsection (1) may appeal the notice by filing a notice of appeal within 14 days of the date of the notice pursuant to the Community Standards and Licence Appeal Committee Bylaw, Bylaw 15166.”