

REGIONAL DISTRICT OF NANAIMO
FIRE SERVICES ADVISORY COMMITTEE
MEETING TO BE HELD MARCH 15, 2012
7:00 PM
(RDN Committee Room)

A G E N D A

PAGES

CALL TO ORDER

- Welcome and introductions
- 2 - 3 Terms of Reference

MINUTES

- 4 - 5 Minutes of the Fire Services Advisory Committee meeting held May 19, 2011 for information.

REPORTS

- Background on Seismic Review and Recommendations. (verbal N.Avery)
- Out of Boundary Responses/First Responder 911 Dispatch Protocols. (verbal N.Avery)
- 6 Report – Vehicle Taxable Benefits.
- 7 - 9 Report – Pre and Post Trip Vehicle Inspections.
- 10 - 18 Report - Fire Services Act Review – Discussion Paper.
- 19 - 32 Report –Regulatory Bylaw Template.
- 33 - 43 Report - Burning Bylaw Template.
- Regional Perspectives - Call for Volunteers (verbal – C. Mason)

NEW BUSINESS

ADJOURNMENT

Distribution: G. Holme (Chair), M. Young, J. Fell, J. Stanhope, B. Veenhof, Extension Volunteer Fire Department, Nanoose Volunteer Fire Department, Errington Volunteer Fire Department, Coombs Hilliers Volunteer Fire Department, Dashwood Volunteer Fire Department, Bow Horn Bay Volunteer Fire Department, C. Mason, N. Avery, W. Idema, P. Thorkelsson, T. Armet

For information: D. Brennan, A. McPherson, H. Houle, B. Bestwick, J. Ruttan, G. Anderson, D. Johnstone, T. Greves, J. Kipp, M. Lefebvre, D. Willie, B. Dempsey

REGIONAL DISTRICT OF NANAIMO

**ELECTORAL AREAS FIRE SERVICES ADVISORY COMMITTEE
TERMS OF REFERENCE**

October 2010

PURPOSE:

The Committee is an Advisory Committee and is intended to provide a forum to exchange information and to coordinate approaches to administrative and operational aspects of the fire services provided in the Regional District of Nanaimo, with the objectives of ensuring that fire protection and emergency response services are provided in a safe, operationally effective and financially responsible manner.

BACKGROUND:

The Regional District of Nanaimo may under the Local Government Act establish services which benefit the community. At the present time, the Regional District has adopted bylaws establishing fire protection and emergency response services for the following areas:

Area C	Extension Fire Protection Service	Bylaw 1439
Area E	Nanoose Bay Fire Protection Service	Bylaw 991
Area F	Coombs Hilliers Fire Protection Service	Bylaw 1022
	Errington Fire Protection Service	Bylaw 821
Area G	Parksville (Local) Fire Protection Service	Bylaw 1001
	French Creek Fire Protection Service	Bylaw 794
Area H	Dashwood Fire Protection Service (F,G & H)	Bylaw 964
	Bow Horn Bay Fire Protection Service	Bylaw 1385

* a number of the service areas cross electoral area boundaries

In the Province of BC a Regional District is the corporate entity which establishes the authority to provide a service and to raise funds to support the delivery of a service. A Regional District has the legal responsibility to ensure that the service is provided in an operationally sound manner, including ensuring that vehicles, buildings, equipment and personnel operate in a safe environment.

The Regional District of Nanaimo has entered into service contracts with incorporated Societies to assist in the delivery of fire protection and emergency response services in some parts of the Regional District. The Boards of the Societies are responsible for the day to day operations of the fire department including administration, personnel recruitment, training and management, operating and maintaining vehicles, equipment and buildings and providing advice on operating and capital budgets.

COMMITTEE ROLES AND RESPONSIBILITIES:

1. The Committee shall consider information and/or reports from any member of the Committee and may make recommendations where applicable for consideration by the Regional Board.
2. The Committee may review and provide advice to the Regional Board with respect to policies affecting fire and emergency services within the Regional District of Nanaimo.
3. The Committee shall follow up on matters referred to it by the Regional District Board and report back as required.

Topics which may be considered by the Committee include, but are not limited to:

- Communications initiatives and protocols
- Operational guidelines regarding the use of equipment, vehicles and buildings
- Firefighter training standards and training opportunities
- Regulatory bylaws
- Boundary alignments/realignments
- Purchasing
- Capital improvement projects for vehicles, equipment or buildings
- Financial record keeping
- Budgeting
- Selection and Recruitment
- WorkSafe BC issues and orders
- Administrative support
- Mutual Aid/Emergency 911 operations

MEMBERSHIP:

- The Electoral Area Director from Electoral Areas C,E,F,G and H
- The Chairperson or Vice Chairperson of each operating Society
- The Fire Chief or Deputy Fire Chief of each operating Society
- General Manager Finance & Information Services
- General Manager, Development Services
- Other Society Board members or Fire department personnel as required from time to time
- Other Regional District staff as required from time to time

CHAIRPERSON:

The Chair of the Committee shall be appointed annually by the Chair of the Regional District of Nanaimo from among the Electoral Area Directors.

MEETINGS:

1. The Committee shall meet approximately three times per year in the spring, mid-year and fall or as required.
2. There shall be no minimum attendance requirement to establish a forum for conducting a meeting.
3. Decisions of the Committee will be made by consensus whenever possible. If necessary, votes may be taken.
4. Regional District staff will contact each Committee member to solicit topics for discussion prior to agenda preparation.
5. Regional District staff will be assigned to support the Committee including the coordination of agendas, minutes and staff contacts for Committee members.
6. No remuneration for participation on the Committee is provided but if Committee activities coincide with meal times, meals will be provided.

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE FIRE SERVICES ADVISORY COMMITTEE
MEETING HELD ON THURSDAY, MAY 19, 2011, AT 7:00 PM
IN THE RDN COMMITTEE ROOM**

Present:

Director Holme	Chairperson
Director Young	Electoral Area C
Director Biggemann	Electoral Area F
Director Bartram	Electoral Area H
Bill Grose	Trustee, Extension Volunteer Fire Department
Brandon Britt	Deputy Fire Chief, Extension Volunteer Fire Department
Doug Penny	Fire Chief, Nanoose Bay Volunteer Fire Department
Colin Catton	Fire Chief, Errington Fire Department
Don Alberg	Chairperson, Dashwood Volunteer Fire Department
Nick Acciavatti	Fire Chief, Dashwood Volunteer Fire Department
Gerry Caille	Trustee, Bow Horn Bay Volunteer Fire Department
Steve Anderosov	Fire Chief, Bow Horn Bay Volunteer Fire Department

Also in Attendance:

Carol Mason	Chief Administrative Officer
Wendy Idema	A/C General Manager, Finance & Information Services
Paul Thorkelsson	General Manager, Development Services
Tom Armet	Manager, Building, Bylaw Enforcement & Emergency Planning

Regrets:

Director Stanhope	Electoral Area G
Will Geselbracht	Chairperson, Nanoose Bay Volunteer Fire Department
Patti Whittaker	Chairperson, Errington Volunteer Fire Department
Neil Crosby	Chairperson, Coombs Hilliers Fire Department
Darren Hillsden	Fire Chief, Coombs Hilliers Fire Department

MINUTES

MOVED Director Bartram, SECONDED Director Young, that the minutes of the Fire Services Advisory Committee meeting held January 13, 2011 be adopted.

CARRIED

ADJOURNMENT

The Chair thanked all in attendance. C. Mason asked the participants if they wish to continue with the Fire Services Advisory Committee meetings, and it was agreed they are useful, but they need to be moved around to other areas. The next meeting will be held further up island.

MOVED Director Bartram, SECONDED Director Young, that the meeting terminate.

CARRIED

TIME: 7:45 PM

CHAIRPERSON



RDN REPORT		
CAO APPROVAL		
EAP		
COW		
MAR 09 2012		
RHD		
BOARD		
Fire Serv. Adv. Comm		

MEMORANDUM

TO: Carol Mason
Chief Administrative Officer

DATE: March 8, 2012

FROM: Nancy Avery
General Manager, Finance & Information Services

File:

SUBJECT: Vehicle taxable benefits

PURPOSE:

To provide information to fire department Societies regarding the application of vehicle taxable benefits for vehicles assigned to or used by Fire and/or Deputy Chiefs.

BACKGROUND:

The Income Tax Act requires any person who is assigned or provided a vehicle in the course of their duties to a taxable benefit. In the emergency services field a taxable benefit is applicable for personal use of an assigned vehicle – even if it is marked as an emergency vehicle.

Personal use includes driving to and from the firehall from home unless responding to an emergency call and any other personal use of the vehicle, even if the person is on call during that time period. A firefighter assigned a vehicle should keep a log of personal use to support the taxable benefit in the event of a Canada Revenue Agency audit.

For 2012 (and until amended) personal kilometres are a taxable benefit at a rate of \$.24 per kilometre.

ALTERNATIVES:

There are no alternatives provided as this is a requirement of the Income Tax Act.

RECOMMENDATION:

That the Societies be advised of their requirement to ensure that they are meeting the rules under the Income Tax Act with respect to calculating and reporting taxable benefits for the personal use of fire fighting vehicles.

Report Writer

CAO Concurrence



RDN REPORT	
CAO APPROVAL <i>(Signature)</i>	
EAP	
COW	
MAR 09 2012	
RHD	
BOARD	
Fire Svcs Adv. Comm	

MEMORANDUM

TO: Carol Mason
Chief Administrative Officer

DATE: March 8, 2012

FROM: Nancy Avery
General Manager, Finance & Information Services

File:

SUBJECT: Pre and post trip vehicle inspections

PURPOSE:

To report on the requirement for pre- and post-trip vehicle inspections.

BACKGROUND:

The Dashwood Fire Chief, while conducting research to develop a departmental policy on apparatus inspections and documentation obtained information which suggested that the Regional District of Nanaimo was the body which is required to establish the policy as it would be identified as the "carrier" under the legislation.

The Regional District's solicitor has clarified that the definition of a "carrier" under the Motor Vehicle Act includes "any other person having management of the commercial motor vehicle or determination of the uses to which it is put,...". Because the Society has the management of the fire equipment pursuant to a service agreement both the Regional District and the Society could be considered carriers under the Regulation. Our solicitor does not consider the Regional District's role to be a primary one, but suggests that for clarity the service contracts could be amended by an addendum to specify this point.

ALTERNATIVES:

1. Add an addendum to the service agreements to clarify the Society's role as a "carrier" for the purposes of the Motor Vehicle Act.
2. Take no action at this time.

FINANCIAL IMPLICATIONS:

Alternative 1

There are no financial implications to amending the service agreements on this point.

Alternative 2

While the risk is assumed to be low on this point, staff recommend making the change to avoid any chance of confusion for each party and to ensure the Motor Vehicle Act is complied with.

SUMMARY/CONCLUSIONS:

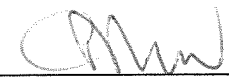
It has been brought to staff's attention that under the Motor Vehicle Act the Regional District of Nanaimo could be considered a carrier with a responsibility to ensure that emergency vehicles are inspected in accordance with that Act. This is impractical under the circumstances of the operating contracts with the Societies. Our solicitor advises that while it is unlikely the Regional District would be interpreted to be so in a strict legal sense, he suggests amending the agreements to clarify this point. Staff have drafted an addendum which will serve this purpose and recommend that a copy be forwarded to each Society for their signature.

RECOMMENDATION:

That the addendum attached to this report which clarifies that the operating Society is the "carrier" as defined under the Motor Vehicle Act be forwarded to each Society for execution



Report Writer



CAO Concurrence

ADDENDUM TO AGREEMENT DATED _____

BETWEEN THE

Regional District of Nanaimo

AND

The {Fire Department Name}

The following is added to Section XX – **COMPLIANCE WITH LAWS**

- (b) The Society shall be considered for the purposes of this agreement to be the “carrier” with respect to the Motor Vehicle Act and shall at all times comply with any regulations or requirements thereunder.

IN WITNESS WHEREOF the parties to this Agreement have set their hands as of the day and year first written above:

The Regional District of Nanaimo

Chairperson

Sr. Mgr., Corporate Administration

The {Fire Department}

Chairperson

Secretary



RDN REPORT	
CAO APPROVAL <i>CM</i>	
EAP	
COW	
MAR 09 2012	
RHD	
BOARD	

MEMORANDUM

TO: Carol Mason
Chief Administrative Officer

DATE: March 8, 2012

FROM: Nancy Avery
General Manager, Finance & Information Services

File:

SUBJECT: Fire Services Act Review – Discussion Paper

PURPOSE:

To consider a working group to develop a response to the Fire Services Act Review Discussion Paper.

BACKGROUND:

In late December 2011 the Ministry of Public Safety and Solicitor General issued a discussion paper to the Fire/Rescue Service Report Leadership Group. The purpose of the Leadership Group is to provide a forum to discuss issues identified in the September 2009 report titled “Transforming the Fire/Rescue Service” – a report financially supported by the Province of BC and developed by agencies representing firefighters and local governments in BC.

The Province intends on amending the *Fire Service Act* to enable the Office of the Fire Commissioner (OFC) to focus resources on key areas of its mandate – fire safety and fire protection. The goal is to produce a revised Act in partnership with the Transforming the Fire/Rescue Service Report Leadership Group within the next two years. The items for discussion include but aren’t limited to:

- Role of the Local Assistants to the Fire Commissioner
- Streamlining fire reporting, investigation and inspection systems
- Orders, appeals and enforcement
- The Fire Commissioner’s powers in emergencies
- Establishing that local governments have responsibility for all fire departments within their area of jurisdiction
- Registration of fire departments
- Fire rescue coverage
- Fire Advisory committee

The discussion paper provides several questions related to each topic which are helpful in defining the concern.

Staff contacted the UBCM office seeking direction on whether feedback was still being gathered and were advised that the UBCM has depended largely on the local government committee representatives to provide feedback. By contrast the Fire Chiefs Association distributed the paper to its membership and

offered an online survey tool to gather feedback. The Fire Chiefs Association is also a representative on the Leadership Group and separately represents the views of practicing firefighters.

The Regional District's volunteer fire departments are the best source of information on these topics and staff believe it would be beneficial to provide a coordinated response which can form the basis of recommendations to the Regional District Board and ultimately to the UBCM representatives on the Leadership Group. To that end staff suggest that a working group consisting of staff and the Fire Chiefs be struck to develop and provide a coordinated response using the following steps:

March (TBA)	Fire Chiefs & staff meet to document recommendations
April 13	Staff draft summary report and distribute to all fire departments for comment
April 30	Fire departments relay any further feedback
May 8	Report presented to Regional Board (Committee of the Whole)
May 22	Report approved by Regional Board with staff follow up thereafter

This timeline would allow feedback to be gathered, reviewed and forwarded to UBCM in a relatively timely manner so as to inform the Leadership Group's discussions with the Province.

ALTERNATIVES:

1. Establish a working group consisting of the General Manager, Finance & Information Services, the Manager, Building, Bylaw and Emergency Planning and the Fire and/or Deputy Fire Chiefs of each department to provide responses or recommendations regarding the Fire Services Act Discussion Paper.
2. Take no action at this time.

FINANCIAL IMPLICATIONS:

Alternative 1

Some, if not all departments received a copy of this discussion paper from the Fire Chiefs Association and were asked to respond through an online survey tool. It is equally important that the Regional Board provide its policy perspective and respond to the points raised in the discussion paper. It is expected that there will be some duplication of responses however the benefit of collecting the views of the fire departments is that the Regional Board has a better understanding of those views as well as any advice staff and the fire department members might provide with regards to the implications of supporting a particular approach to amending the *Fire Services Act*.

There are no significant financial implications to forming a working group to formulate a coordinated set of responses. If any of the topics suggest broader financial implications staff would summarize them and present them for further discussion.

Alternative 2

Under this alternative there would be no further action to provide an overall response. Staff consider it very important that these matters be brought to the full Regional Board for consideration as it is the Regional Board's ultimate responsibility for fire protection service delivery under the *Local Government Act*. Staff would suggest that a meeting with the Fire Chiefs to gather their viewpoints on this topic take place regardless. The viewpoints could be summarized and brought back to the Advisory Committee later in the year for information and further direction.

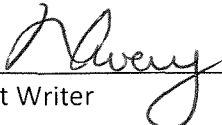
SUMMARY/CONCLUSIONS:

A discussion paper seeking feedback on areas of focus with respect to amendments to the Fire Service Act was distributed in December 2011 by the Ministry of Public Safety & Solicitor General to the Fire/Rescue Service Report Leadership Group. The Province intends on amending the *Fire Services Act* to enable the Office of the Fire Commissioner (OFC) to focus resources on key areas of its mandate – fire safety and fire protection. The goal is to produce a revised Act in partnership with the Transforming the Fire/Rescue Service Report Leadership Group within the next two years.

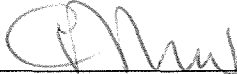
It is equally important that the Regional Board provide its policy perspective and respond to the points raised in the discussion paper. To that end staff recommends that a working group of Regional District staff and Fire Chiefs document views on the points raised and summarize those for consideration by the Regional Board. It is expected that there will be some duplication of responses (if any Fire Chief has responded to the survey) however the benefit of collecting the views of the fire departments is that the Regional Board has a better understanding of those views, as well as any advice staff and the fire department members might provide with regards to the implications of supporting a particular approach to amending *the Fire Services Act*.

RECOMMENDATION:

That a working group consisting of the Fire and/or Deputy Fire Chiefs of each fire department and designated Regional District staff be established to document responses or recommendations regarding the *Fire Services Act* Discussion Paper.



Report Writer



CAO Concurrence

FIRE SERVICES ACT

Draft Discussion Paper

DECEMBER 7, 2011

**Cynthia White
Senior Policy & Legislative Analyst
Corporate Policy and Planning Office
Ministry of Public Safety and Solicitor General**

A. Introduction

Amendments to the *Fire Services Act* (“FSA”) are necessary to enable the Office of the Fire Commissioner (“OFC”) to focus resources on areas key to its mandate - fire safety and fire protection. Amendments are also required to widen the mandate of the OFC to enhance its leadership role. The Ministry of Public Safety and Solicitor General (the Ministry) intends to begin work to revise the Act. The goal is to produce a revised Act in partnership with the Transforming the Fire/Rescue Service Report Leadership Group (“the Leadership Group”) within the next two years.

The proposals contained in this document are offered to inform a discussion between the OFC, the Leadership Group and the stakeholders the Leadership Group members represent. In line with the recommendations in the report by the Fire Services Liaison Group titled, *Public Safety in British Columbia: Transforming the Fire/Rescue Service* (September 2009), members of the Leadership Group have been asked to lend their views and expertise to assist the OFC to review the FSA. Central to this work will be assisting the OFC to build a solid policy framework for the revised Act.

This draft discussion paper has been developed to obtain your preliminary feedback from the stakeholders represented by the Leadership Group on proposed changes to the policy that underlies the current Act. Members of the Leadership Group are welcome to share this discussion paper with the organizations they represent. Also, members are welcome to collect and relay feedback from their Associations to the OFC on the policy questions posed. Answers to the questions will assist the OFC to enhance existing policy and develop new policy to support possible amendments to the FSA.

A formal discussion paper will be shared with the stakeholders represented by the Leadership Group later in the year of 2012 once the FSA review project moves further along, and the OFC and Leadership Group has had an opportunity to fully consider possible amendments.

B. Items for policy discussion

Policy discussions at the FSA review table will include but not be limited to the following items which may or may not be included in a revised Act:

- The role of Local Assistants to the Fire Commissioner;
- Streamlining the fire reporting, investigation and inspection systems;
- Orders, appeals and enforcement;
- Means of ingress and egress;
- The Fire Commissioner’s powers in emergencies;
- Authority for local governments to enact fire or building bylaws to improve public safety;
- Establishing that local governments have responsibility for all fire departments within their area of jurisdiction;
- Registration of fire departments;

- Fire rescue coverage;
- Fire Advisory Committee;
- Public fire safety education; and
- Other policy issues brought forward by the OFC staff or Leadership Group members for consideration in the revised Act.

C. Starting points – OFC’s mandate and resources, local governments’ autonomy and other legislation

Before any work can begin towards the development of a revised FSA, it is important to review the current mandate of the OFC. The existing mandate serves, not only as the starting point for policy discussions but as the anchor to which policy changes and any amendments to the FSA must be tested, weighted and balanced.

Also, it is important to consider the reality of the tough economic times we currently live in and that not all recommendations can be achieved under OFC’s resources. However, for those recommendations that cannot be translated into provisions in the FSA, it may be possible to develop other policy solutions outside of the legislation to enhance fire safety and prevention and the OFC’s leadership role.

In addition, it is recognized that local governments are responsible for their jurisdictional areas. Local government autonomy is another important consideration in determining the shape of any proposed amendments to the FSA. The OFC’s mandate does not include advising on fire service operations at the local level.

Finally, the FSA’s relationship to other provincial and federal legislation will have to be taken into consideration, including Constitutional jurisdiction and *Charter* rights.

D. The Existing Mandate

The OFC is the senior fire authority in the province with respect to fire safety and prevention. Current responsibilities include administration and enforcement of fire safety legislation, training of local assistants to the fire commissioner, fire loss statistics collection, fire investigation, fire inspection, response to major fire emergencies, and advice to local governments on delivery of fire protection services, public fire safety education and fire fighter certification. The OFC’s existing mandate is set out in section 3 of the Act under Duties of the fire commissioner as follows:

- (1) The fire commissioner must, for fire prevention and inspection, do the following:
 - (a) collect and disseminate information about fires in British Columbia;
 - (b) investigate and inquire into a fire as the fire commissioner believes advisable;
 - (c) investigate conditions under which fires are likely to occur;
 - (d) study methods of fire prevention;

(e) give the advice and recommendations the fire commissioner considers necessary on matters in subsection (2).

(2) Matters for advice and recommendation of the fire commissioner are the following:

- (a) provision of an adequate water supply;
- (b) installation and maintenance of a fire alarm system and fire extinguishing equipment;
- (c) enactment and enforcement of municipal bylaws for fire prevention or to protect life and property from fire;
- (d) planning of a municipal area to protect against fire;
- (e) lightning rods;
- (f) any other fire prevention and inspection matter.

(3) The fire commissioner must, for fire suppression, do the following:

- (a) consult with and give information and advice to fire chiefs and fire departments;
- (b) establish, in consultation with the advisory board and subject to the minister's approval, minimum standards for selection and training of fire services personnel;
- (c) give the advice and recommendations the fire commissioner considers necessary on the establishment of fire departments.

(4) The fire commissioner must help to enforce all enactments on combustibles, explosives and other flammable matter.

(5) The fire commissioner must perform other duties required by the minister.

E. Policy Questions

Do consider the following policy questions together with the relevant sections in the current FSA:

1. LAFC:

- Consider what LAFCs actually do; are all activities reflected in the Act?
- How can LAFCs' current roles, duties and powers be better reflected in the FSA?
- What qualifications should LAFCs hold?
- Should the duration of an LAFC appointment exceed 3 years?

2. Reporting, investigations and inspections:

- How many days after an investigation should the LAFC file his or her report?
- In practice, how often is a preliminary report filed?
- Should *injury to persons* be added to the criteria where a fire should be investigated?
- Do you have suggestions for other criteria?

3. Orders and appeals:

- Consider how the orders and appeals provisions could be streamlined to be more effective and better understood.

4. Fire Commissioner's powers in emergencies:

- It is proposed that the Fire Commissioner have the power to carry out an order in an emergency, do you agree?
- Consider the existing section 25 provision; do you have any other suggestions for improving on the powers under the emergencies section?

5. Fire or building bylaws to improve public safety:

- How can the FSA be enhanced to provide authority for local governments to better establish fire or building bylaws to improve public safety?

6. Fire Departments:

- What criteria should be established for the registration of fire departments?
- What factors should be considered before registration?

7. Fire rescue coverage:

- As a starting point for discussion, consider the pros and cons of the following options:
 - (i) The OFC advises on mutual aid in conjunction with local authorities to help ensure no gaps in fire rescue coverage.
 - (ii) The OFC sets guidelines on mutual aid to help ensure no gaps in fire rescue coverage.
 - (iii) The OFC has the authority in the FSA to issue a directive in relation to fire rescue coverage.
 - (iv) The OFC has the authority in the FSA to advise local authorities on mutual aid agreements to help ensure no gaps in fire rescue coverage.
 - (v) The OFC has the authority in the FSA for oversight of fire rescue coverage and to work with local authorities to ensure no gaps in coverage.

8. Advisory Committee:

- It is proposed that a Fire Advisory Committee be established under the FSA. Members would be appointed by the Fire Commissioner and the Committee would be convened at the discretion of the Fire Commissioner. The Committee model would be more flexible than the current Board model under the FSA. Do you have any comments on this change?

F. Responding to this draft discussion paper

The OFC wishes to hear from the stakeholders represented by the Leadership Group. Please relay your suggestions and comments for changes to the FSA to the Ministry through your representative on the Leadership Group. Members of the Leadership Group are most welcome to contact Cameron Lewis or Cynthia White with suggestions and comments on the proposals set forth in this paper. It is hoped that some of the questions posed in this paper can be discussed with the Leadership Group in February 2012 or at the next meeting of the Leadership Group in 2012.

Ministry of Public Safety and Solicitor General
Emergency Management BC
Cameron.Lewis@gov.bc.ca
Telephone: 250-953-4036

Ministry of Public Safety and Solicitor General
Corporate Policy and Planning Office
Cynthia.White@gov.bc.ca
Telephone: 250-387-4842

THANK YOU
HAPPY HOLIDAYS AND ALL THE BEST IN THE NEW YEAR



RDN REPORT	
CAO APPROVAL <i>CAO</i>	
EAP	
COW	
MAR 12 2012	
RHD	
BOARD	
<i>Fire Svs Adv. Comm</i>	

MEMORANDUM

TO: Carol Mason
Chief Administrative Officer

DATE: March 8, 2012

FROM: Nancy Avery
General Manager, Finance & Information Services

File:

SUBJECT: Regulatory Bylaw Template

PURPOSE:

To introduce a draft regulatory bylaw template to assist in standardizing bylaw language for fire protection services.

BACKGROUND:

Regulatory bylaws for fire departments have been developed and introduced at varying points of time and as a result have somewhat varying sections and phrasing. Staff have reviewed the existing bylaws and with assistance from the Regional District’s solicitor drafted two template bylaws presented with this report.

A department may wish to have more or less authority than described in these bylaws. The intent is to provide a framework of relatively common authorities so that departments can add or subtract if necessary.

Regulatory Bylaw:

Where a fire protection service is provided a Board must establish by bylaw the authority of a Fire Chief or Member to take certain actions which cannot be inconsistent with the *Fire Services Act*. These include:

- Entering onto property to inspect premises for conditions that may cause a fire
- Take measures described in the bylaw to prevent or suppress fires including the demolition of buildings and other structure to prevent the spreading of fire
- Exercise some or all of the powers of the fire commissioner under section 25 of the Fire Services Act (see following)

Emergencies

- **25** (1) If an emergency arising from a fire hazard or from a risk of explosion causes the fire commissioner to be apprehensive of imminent and serious danger to life or property, or of a panic, the fire commissioner may immediately take the steps he or she thinks advisable to remove the hazard or risk.
- (2) For the purposes of subsection (1), the fire commissioner may evacuate a building or area, and may call on the police and fire prevention authorities who have jurisdiction to provide assistance.

take the action he or she believes advisable to remedy the conditions to eliminate the danger and may evacuate and close the hotel or public building.

- (4) For the purposes of subsection (3), the fire commissioner may call on the assistance of peace officers and fire prevention authorities.
 - (5) An appeal by petition to the Supreme Court may be taken by a person injuriously affected by the closure of a hotel or public building under subsection (3).
 - (6) The petition must be filed in the court registry within 5 days after the order of closure and the fire commissioner must be given notice in writing of the petition.
 - (7) The court may make any order it considers just.
 - (8) An appeal from an order under subsection (7) lies to the Court of Appeal with leave of a justice of the Court of Appeal.
- Require owners or occupiers to remove anything that in the opinion of the fire chief is a fire hazard or increases the danger of fire
 - If property is endangered by debris caused by lumbering, land clearing or industrial operations to require the disposal of the debris or undertake any other actions for the purposes of removing or reducing the danger
 - Deal with any matter within the scope of the Fire Services Act in a manner not contrary to that Act or a regulation under it

If one or more of these topics are not provided in a local government bylaw there is no authority to take that action.

The contents of the regulatory bylaw attached to this report will be generally familiar to a number of departments. At this time regulatory bylaws exist for all departments except the Coombs Hilliers department.

Section 4. Jurisdiction

A fire department is not authorized to respond beyond its service area boundaries without approval of the Regional Board, unless an emergency is declared by the Regional District or the Province under the Emergency Program Act. This section is consistent with our recent practice of providing an annual authorization to respond to special fire season requests by the Coastal Fire Center. Mutual aid agreements are another example of an authorization under which fire departments can provide assistance outside of their statutory boundaries.

Section 7. As noted above, of importance to the fire department are authorities to (authorized to but not required to):

- enter onto premises to inspect conditions that may increase the risk of a fire
- make orders to have flammable material removed from land or premises
- order the evacuation of a building or area if serious risk from a fire etc. is imminent

Section 8. The bylaw sets out what is permissible conduct by the public at an incident and the authority of the Fire Chief to manage the scene in the best interests of public safety.

Section 9. The Fire Chief may prohibit smoking in a public building in the interests of reducing the risk of fire.

Sections 10 to 15:

These sections cover the responsibilities of owners and occupiers to maintain safe buildings and structures including securing vacant buildings, not accumulating piles of flammable materials, not depositing flammable materials into hot ashes, maintaining chimneys, stovepipes, flues and furnaces, providing fire escapes and properly storing and disposing of gasoline, flammable compounds and gasoline tanks.

ALTERNATIVES:

1. Have each department review the template bylaw and work with RDN staff to make adjustments which meet the needs of the department.
2. Take no further action on this matter.

FINANCIAL IMPLICATIONS:Alternative 1

There should be no new financial implications for departments arising from adopting the bylaw in its current form.

Supplementary to the bylaw staff recommend creating a policy regarding how complaints will be dealt with in terms of enforcement. What is envisaged is a policy which describes a series of steps to be taken if a person does not respond to a direction from a Fire Chief. For example, the first complaint could result in a verbal warning by the Fire Chief (documented as such), a second complaint for the same concern could result in a written warning from the fire department, the third complaint could give rise to a formal report to the Regional Board and a further written warning, with the final step being the issuance of a ticket under the Regional District's municipal ticketing bylaw.

Alternative 2

At a minimum it is recommended that staff work with the Coombs Hilliers department to address the lack of a regulatory bylaw for their service area.

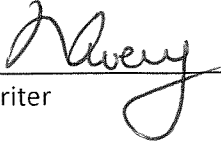
SUMMARY/CONCLUSIONS:

Regulatory bylaws for the Regional District's volunteer fire departments have been developed and introduced at varying points of time and as a result have a variety of section orders and phrasing. With assistance from the Regional District's solicitor and using the existing bylaws, staff have drafted a template bylaw presented with this report. Staff recommends that each department review the bylaw for authorities which may be more or less than they feel necessary in their areas and provide feedback to staff. Staff will obtain any advice necessary to ensure that changes to the template bylaw will not compromise or increase the liability exposure of the Regional District. Final versions of the bylaw will then be presented to the Regional Board for approval.

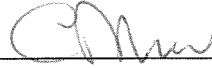
There is no urgent timeline for this process; however, staff recommend that if possible departments provide feedback by the end of April.

RECOMMENDATION:

That the regulatory bylaw template be reviewed by each fire department and feedback be provided to the General Manager, Finance & Information Services as soon as possible.



Report Writer



CAO Concurrence

**REGIONAL DISTRICT OF NANAIMO
BYLAW NO. XXXX**

**A BYLAW TO ESTABLISH RULES
FOR THE ADMINISTRATION AND REGULATION
OF FIRE PROTECTION WITHIN THE
XXXXXXXXXX FIRE PROTECTION SERVICE**

WHEREAS by Section 798 of the *Local Government Act*, the Board has all necessary powers to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a board or regional district;

AND WHEREAS under Section 522 of the *Local Government Act* a Board may by bylaw, make rules respecting the authority of the fire chief and deal with any matter within the scope of the *Fire Services Act* in a manner not contrary to that Act or the regulations under it;

AND WHEREAS the Board of the Regional District of Nanaimo deems it necessary to make rules for the provision, operation and administration of the service established for fire protection, prevention and suppression and the provision of assistance in response to other classes of circumstances that may cause harm;

NOW, THEREFORE, the Board of the Regional District of Nanaimo in open meeting assembled enacts as follows:

1. **Repeal of Prior Bylaw**

“Regional District of Nanaimo (xxxxxxxxx) Fire Services Regulatory Bylaw No. xxxx, xxxx” is hereby repealed.

2. **Title**

This bylaw may be cited as the “xxxxxxxxxxxxxxxxx Regulatory Bylaw No. xxxx, 2012”.

3. **Interpretation**

In this bylaw unless the context otherwise requires:

“**Apparatus**” means any vehicle provided with machinery, devices, equipment or materials for the purpose of fire protection and assistance response as well as vehicles used to transport fire fighters or supplies.

“**Building Code**” means the Building Regulations of British Columbia as amended from time to time.

“**Equipment**” means any tools, contrivances, devices or materials used by the fire department to combat an incident or other emergency.

“Fire Chief” means the Fire Chief of the Fire Department or his/her authorized agent, and is deemed to be a Municipal Public Officer as defined in Section 287(1)(n) of the *Local Government Act* and is empowered by the *Fire Services Act*.

“Fire Code” means the National Fire Code of Canada 2005 adopted as the British Columbia Fire Code or such other code as may be from time to time designated as the British Columbia Fire Code pursuant to the *Fire Services Act*).

“Fire Protection” means all aspects of fire safety including, but not limited to fire prevention, fire fighting or suppression, pre-planning, fire investigation, public education and information, training or other staff development and advising.

“Fire Department” means the fire department established for the area by bylaw of the Regional District or by agreement between the Regional District and a duly incorporated Society that by contract provides fire protection within the Service Area.

“Incident” means fire prevention and suppression, elimination of fire hazards and attending fires for the purpose of containment and extinguishment of a fire and to provide assistance to persons and animals; and providing assistance in response to other classes of emergency as follows:

- (a) explosion;
- (b) flood, tempest, earthquake, landslide, tidal wave or other natural event;
- (c) building collapse or motor vehicle or other accident;
- (d) spill, release or leak of a substance capable of injuring property or the health safety of a person;
- (e) risk of explosion or fire or a risk of a spill, release or leak of a substance referred to (d);
- (f) an emergency as declared by the Regional District under Section 798.1 of the *Local Government Act* or as otherwise declared under the *Emergency Program Act*;
- (g) first response medical emergencies;
- (h) rescue operations;
- (i) mutual aid fire services.

“Member” means any person that is voted upon by the active Members of the Fire Department and ratified by the Officer(s) and the Society Board as a member of the Fire Department.

“Mutual Aid Services” means assistance response pursuant to an agreement between the Regional District and another public authority.

“Officer” means a Member elected by the active Members and ratified by the Society Board and given specific authority to assist the Fire Chief in his/her duties.

“Private Fire Hydrant” means a fire hydrant that is not a public fire hydrant.

“Public Fire Hydrant” means a fire hydrant operated and maintained by the Province, a regional district, a municipality, an improvement district or a society duly incorporated for the purpose of fire prevention and suppression or a fire hydrant located on:

- (a) a public highway or right of way;
- (b) provincial, regional district, municipal or improvement district property; or
- (c) an easement or statutory right of way in favour of the Province, a regional district, municipality or improvement district for the purpose of installing and maintaining the water distribution system.

“Regional District” means the Board of the Regional District of Nanaimo or any committee established by the Board of the Regional District of Nanaimo with responsibility for fire services matters.

“Service” means the service of fire protection and assistance response established by Regional District of Nanaimo Btlaw No. xxx, xxxx and all subsequent amendments.

“Service Area” means the boundaries of the xxxxxxxxxx Fire Protection Service established under Regional District of Nanaimo Bylaw No. xxxx and all subsequent amendments.

“Society Board” means the Board of Directors of the xxxxxxxxxxxxxx Volunteer Fire Department.

4. Jurisdiction

- (1) The Fire Department shall not respond beyond the boundaries of the Service Area:
 - (a) without the express authorization of a written contract or agreement providing for the supply of fire fighting and assistance response services outside the boundaries of the Service Area;
 - (b) without the express authorization of the Regional District; or
 - (c) unless an emergency is declared under Section 798.1 of the *Local Government Act* or under the *Emergency Program Act*.

5. False Representation

- (1) No person who is not a Member shall represent himself or herself as being a Member.

6. Authority of Fire Department Members

- (1) Officers and Members of the Fire Department shall carry out duties and responsibilities assigned by one or both of the Society Board in accordance with its agreement with the Regional District or the Regional District as the case may be.

7. Fire Chief

- (1) The Fire Chief has responsibility and authority over the Fire Department subject to the direction and control of the Society Board and the Regional District.
- (2) The Fire Chief shall be responsible to carry out fire protection and assistance response activities and such other activities as one or both of the Society or the Regional District directs.
- (3) The Fire Chief is authorized to:
 - (a) administer this bylaw;
 - (b) report to the Chief Administrative Officer of the Regional District or other employee designated by the Chief Administrative Officer of the Regional District, through the incorporated Society that is under contract to the Regional District;
 - (c) advise the Society Board on the appointment of Officers of the Fire Department to act as Fire Chief on his/her behalf;
 - (d) subject to the ratification of the Society Board and/or as necessary by the Regional District, make rules, regulations, policies and committees to ensure the efficient organization, administration and operation of the Fire Department and alter and repeal them from time to time as he or she deems necessary;
 - (e) the Fire Chief shall report to the Society Board on the operations of the Fire Department or on any other matter in the manner designated by the Society Board;
 - (f) suspend or discharge any Member of the Fire Department when he/she deems such action necessary for the good of the Fire Department and shall immediately report such suspension or discharge to the Society Board. Any member suspended or discharged may within seven days, appeal in writing to the Society Board which shall within two weeks hold a hearing and either order that the Member so suspended or discharged be reinstated or that the action of the Fire Chief be confirmed.
 - (g) act as the Local Assistant to the Fire Commissioner, if so approved by the Fire Commissioner and be responsible for the enforcement of the Fire Code. The Society Board shall advise the Regional District when there is a change in the appointment of the Local Assistant for the Service Area.

- (h) organize or establish programs and policies designed to inform the public or specified classes of the public, on matters regarding fire safety, use of flammable materials, prevention, containment or suppression of fires or other circumstances that may cause harm to persons or property and escape from fires or other classes of circumstances that may cause harm to persons or property;
- (i) enter onto any land or premises during normal business hours or at any other reasonable time to inspect conditions which may cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire;
- (j) make orders or take measures to ensure that flammable material is:
 - (i) removed from land or premises;
 - (ii) removed to another part of land or premises;
 - (iii) rendered harmless or suitably safeguarded against fire by requiring the placement and maintenance of barricades or the posting of "No Admittance" signs or the placement of locks on doors or windows or any combination of these;
- (k) where he or she is of the opinion that there is imminent and serious danger to life or property or that panic is imminent, in an emergency arising from a fire, fire hazard, or risk of explosion, immediately make orders or take steps he/she thinks advisable to remove the hazard or risk including the following:
 - (i) cause people to be removed from a building or an area;
 - (ii) order the evacuation of a building or area; and
 - (iii) call upon a peace officer to assist and to provide security to the evacuated area;
- (l) enter onto or order Fire Department Members to enter onto any property or into any premises and damage, break up, remove or destroy any part or parts of any premises including any buildings, structures, improvements or vegetation on any premises when the Fire Chief is of the opinion that there is imminent and serious danger to life or property arising from a fire, fire hazard or risk of explosion;
- (m) order the demolition of buildings, structures or improvements or the destruction and clearing of materials, vegetation or debris to prevent the spreading of fire.

8. Conduct at Incidents

- (1) The Fire Chief or in his/her absence, the senior ranking Officer or Member present, shall have control, direction and management of all Fire Department apparatus, equipment or manpower assigned to an Incident and where the Member is in charge, he/she shall continue to act until relieved by a senior Officer.
- (2) No person shall in any way hinder any Member of the Fire Department or any other person assisting or acting under the direction of the Fire Chief or Member in charge at any Incident.
- (3) Where the Fire Chief or Member in charge at an Incident is of the opinion that there is imminent and serious danger to life or property, or that panic is imminent, in an emergency arising from a fire, fire hazard or risk of explosion, he or she may in addition to an action under Section 7(3)(k) or (l);
 - (a) make one or more orders or take one or more steps he or she thinks advisable to remove the hazard or risk;
 - (b) establish lines marked by ropes, guards or barricades at an Incident;
 - (c) request persons who are not Members to assist in whatever manner he/she considers necessary to deal with the Incident, including removing furniture, goods and merchandise from any building on fire or in danger of catching fire and in guarding and securing a building, in demolishing a building structure at or near the fire or other Incident;
 - (d) is authorized to assume control of privately owned equipment that he/she considers necessary to deal with an Incident without the consent of the owner;
- (4) The Fire Chief or Member in charge of an Incident may obtain assistance from other officials as he/she deems necessary in order to discharge his/her duties and responsibilities under this bylaw.
- (5) The Fire Chief or the Member in charge at an Incident is empowered during the Incident to enter, pass through or over buildings or property adjacent to an Incident and to cause Members of the Fire Department and the apparatus and equipment of the Fire Department to enter or pass through or over building or property, where he/she deems it necessary to gain access to the Incident or to protect any person or property.
- (6) No person shall, except with the permission of the Fire Chief or the Member in Charge, be permitted to enter any burning building, or within the lines established by the Fire Chief marked by ropes, guards or barricades at an incident.
- (7) No person shall drive, push or pull a vehicle of any kind over a fire hose or Fire Equipment without the permission of the Fire Chief or the Member in Charge.

- (8) No person shall damage, destroy, obstruct, impede or hinder the operation of any Fire Department Apparatus or Equipment.
- (9) No person shall place or maintain any object or matter on a sidewalk, street or road, which interferes with free access or approach to any Private or Public Fire Hydrant, or Stand Pipe or cistern or body of water required for fire fighting purposes for a distance of 4.5 metres (15 feet) on either side of the hydrant, standpipe, cistern or body of water.
- (10) No person shall park or leave a vehicle within 7.6 meters (25 feet) of a Private or Public Fire Hydrant or Stand Pipe.

9. Smoking Prohibited

- (1) Where, in the opinion of the Fire Chief, smoking may create a fire or explosion hazard, the Fire Chief may prohibit smoking in any building, theatre, public hall, assembly hall, dance hall, school auditorium, skating rink, arena, or place used for public amusement, sport or public assembly or any structure or open space in which combustible materials are handled, stored, manufactured or sold.
- (2) Where, in the opinion of the Fire Chief, smoking should be prohibited to prevent a fire hazard, he/she may give notice in writing to the owner, occupant and/or user as the case may be, of premises as outlined in 10(1) above, to post suitable signs that smoking is prohibited in, around or on such premises or buildings and the owner, occupant and/or user as the case may be of the premises shall prohibit smoking as ordered. The term "smoking" shall include the carrying of a lighted pipe, cigar or cigarette or other material or substance to be smoked.

10. Maintenance of Premises

- (1) An owner or occupier of real property in the Service Area shall remove any matter or thing in or on any building or premises, which, in the opinion of the Fire Chief is a fire hazard or increases the danger of fire.
- (2) An owner or occupier of real property on which is located in an unoccupied or abandoned building shall secure the building against entry by unauthorized persons.
- (3) No owner or occupant of any building or structure shall allow any paper, wood, debris or other combustible rubbish or material to accumulate within or around a building or structure or on the roof of the building or structure.
- (4) Subsection 3 does not apply to:
 - (a) firewood in reasonable amounts having regard to the firewood needs of the owner or occupant of the building or structure
 - (b) papers, cardboard or other materials in amounts less than XXXX cubic metres.

- (5) No person shall deposit or allow to collect or be deposited, any paper, rubbish, or other combustible material likely to cause or promote fire dangers to buildings or other property.
- (6) Any person who makes, uses or has charge of shavings, paper bags, litter or other combustible material shall, at the close of each day, ensure that they are safely stored or disposed of so as to be safe from fire.
- (7) No person, in that part of any building where there is an accumulation of hay, straw, shavings or other readily flammable material, or liquids, shall smoke, or have in their possession any lighted pipe, cigar or cigarette, or light or carry any naked light, flame, or light not enclosed in a shade or other non-combustible guard.
- (6) No person shall deposit any ashes or allow any ashes to be deposited or remain:
 - (a) in any combustible container;
 - (b) on the floor of any building; or
 - (c) in any metallic container which is within 300 mm (12 inches) of any woodwork or any other combustible material.
- (7) It shall be unlawful for any person to deposit, or allow or cause to be deposited, any paper, straw, hay, shavings or other combustible or flammable material or thing in or among any ashes or other materials or things taken from any stove, furnace, or fireplace.
- (8) No person shall keep any waste, rags, papers, or other substance liable by spontaneous combustion to cause fire, except in a container made of metal or other non-combustible material and with an air-tight top or lid of the same type of material.
- (9) An owner or occupier of real property shall keep Private Hydrants in good working order, paint Private Hydrants fire department yellow, keep Private Fire Hydrants clear of ice, snow, shrubs, trees, structures and other obstructions and clearly identify the location of the fire hydrants. If said hydrants are out of service for repair or not yet in service they shall be wrapped in burlap or black plastic sheeting.

11. **Chimneys, Stovepipes, Flues, Furnaces**

- (1) No owner or occupant of any building shall permit any chimney, stovepipe or flue to remain in any condition which may cause or create a fire hazard.
- (2) Every owner or occupant of any building shall keep all openings in any chimney in such buildings, while such openings are not in use, closed by a proper stopper of metal or other non-combustible material.
- (3) Where he deems it necessary, the Fire Chief or his designate may examine any chimney, flue, fireplace, hearth, oven, furnace, heater, boiler, stove, stem-pipe, funnel or any other equipment deemed to be a fire hazard.

- (4) Where any chimney, flue, fireplace, hearth, oven, furnace, heater boiler, stove, steampipe, funnel or any other equipment is found to be a fire hazard, the Fire Chief shall notify the owner or occupant of the building of the condition and indicate the remedy and the time within which the condition shall be remedied.

12. Fire Escapes

- (1) Each storey above the ground floor of any building used as a school, hotel, apartment building, duplex or boarding house, as those are defined in the local zoning bylaw, shall be provided by the owner with an adequate fire escape or adequate fire escapes, and the owner, and the tenant, if any, shall maintain the same in good repair and condition.
- (2) No door to any exit leading to a fire escape in any building shall be closed or fastened except with a standard panic or exit bolt, which may be readily opened without the aid of a key or other device.

13. Gasoline Storage

- (1) Except as authorized in writing by the Fire Chief, no person shall store or keep gasoline other than:
 - (a) gasoline not exceeding 45 litres (10 gallons) in closed metal containers or in approved plastic containers for outdoor storage only;
 - (b) gasoline in the gasoline tank of an automobile, gasoline engine, motor boat or aeroplane, whose tank is permanently connected to and supplies its engine.

14. Disposal of Gasoline Storage Tanks

- (1) All unused gasoline storage tanks on service station sites shall be either filled **[need to specify what tanks will be filled with – sand or???**] or be removed.

15. Storage of Explosives or Flammable Compound, Liquid or Material in Public Building

- (1) Except in a place especially provided for the purpose and approved by the Fire Chief, it shall be unlawful for any person to keep, store or use any combustible explosive or flammable compound, liquid or material in any part of a building used or maintained as a hotel, apartment house, school or place of public assembly.

16. Notices

- (1) Where, in the opinion of the Fire Chief, any fire hazard condition exists or any unoccupied building is not properly secured, the Fire Chief may give written notice to the owner or occupant at their last known address or by posting a notice in a conspicuous place on the building or premises.

- (2) In any notice under this section, the Fire Chief shall indicate the nature of the condition to be remedied, and the time within which the owner or occupant must comply.

17. Enforcement

- (1) Any person who violates any provision of this bylaw commits an offence and is liable upon conviction to the penalties provided in the *Offence Act*.
- (2) Where any violation continues, each day of which it continues shall be deemed to be a separate violation for the purposes of prosecution under this bylaw.

Introduced and read three times this day of , 2012.

Adopted this day of ,2012.

CHAIRPERSON

SR. MGR., CORPORATE ADMINISTRATION



RDN REPORT	
CAC APPROVAL <i>(Signature)</i>	
EAP	
COW	
MAR 12 2012	
RHD	
BOARD	
<i>Fire Services And Camp</i>	

MEMORANDUM

TO: Carol Mason
Chief Administrative Officer

DATE: March 8, 2012

FROM: Nancy Avery
General Manager, Finance & Information Services

File:

SUBJECT: Burning Bylaw Template

PURPOSE:

To introduce a draft burning bylaw template to assist in standardizing burning bylaws in fire protection areas.

BACKGROUND:

As noted in the report on the regulatory bylaw template, burning bylaws for fire departments have been developed and introduced at varying points in time with the result that they vary in their structure and descriptions of burning regulations. Staff undertook a review of the existing bylaws and with assistance from the Regional District’s solicitor drafted a template bylaw attached to this report. The intent is to provide a framework which will also permit RDN staff to quickly read and interpret the bylaws when necessary. The template bylaw is an amalgam of the burning bylaws for Extension, Errington, Dashwood and Bow Horn Bay. There are no outdoor burning bylaws in effect in the Coombs Hilliers or Nanoose Bay areas.

The choice of whether to have a burning bylaw or not, is not a simple one. For the most part, local burning bylaws attempt to control backyard type outdoor burning to ensure safety, and to minimize the impacts on air quality between neighbours. If a local government bylaw is desired then there is a need to allow for some level of resources to manage the bylaw, such as responding to requests for information or issuing permits as well as responding to complaints.

In the Province of BC the Ministry of Forests and the Ministry of Environment have related responsibilities for open burning. In 2005, the Wildfire Act was amended (Ministry of Forests). It is now explicit in that legislation that where a local government burning bylaw exists the Wildfire Act does not apply. This means that burning complaints will not be responded to by the Coastal Fire Centre regardless of whether they are described in the local government bylaw or not. The Open Burning Smoke Control regulation which belongs to the Ministry of the Environment applies to all types of outdoor burning, however, the Ministry is not equipped to respond to the potential volume of calls in all part of the Regional District and hence relies generally on local burning bylaws to act as the legislative framework.

The burning bylaw attached with this report contains notations on items which need clarification by the fire departments a number of which are minor text amendments. However given the more recent framework for open burning management further discussion is warranted to ensure that departments and Regional District

staff have a clearer understanding of whether this bylaw will provide the right balance of authority and regulation.

Section 8: Authorization (Permitting): This section in particular warrants additional comment. Staff are aware that some departments do not issue permits because of the administrative burden. Our solicitor advises that this is not necessarily a bad thing. The use of permits for activities often gives rise to a higher level of liability because there is an expectation that the local government has decided the activity is “safe”, it has a duty to enforce the permit and failure to enforce may result in additional liability exposure. To be effective a permitting scheme needs to be very specific to the types of activities for which a permit will be issued.

An alternative would be to require a person to “register” the proposed burn with the fire department by giving notice of the activity and the date. This would give the fire department the option or opportunity to carry out spot inspections to determine whether the regulations of the bylaw are being met without making the fire department actually responsible for the issuance of a permit.

ALTERNATIVES:

1. Hold a working group meeting of Fire Chiefs and designated Regional District staff to complete the review of the burning bylaw template and provide final recommendations to the committee at the fall meeting.
2. Take no further action on this matter.

FINANCIAL IMPLICATIONS:

For those departments with burning bylaws now, the template bylaw should not dramatically alter their practices. However, as noted above the framework for burning management has changed since 2005 and staff believe it prudent to have further discussions with the Fire Chiefs to resolve a few key aspects of the proposed bylaw. It is important that bylaws be reviewed when circumstances have changed to ensure that the operating Society, its firefighting personnel and Regional District staff have a clear set of regulations to work with.

SUMMARY/CONCLUSIONS:

As noted earlier in the report burning bylaws have a variety of section orders and phrasing. With assistance from the Regional District’s solicitor and using the existing bylaws, staff have drafted a template bylaw attached to this report. In the course of this review staff identified that the framework for outdoor burning management has changed somewhat and while the template bylaw is generally satisfactory, staff recommend meeting with the Fire Chiefs as a group to discuss some of the notated items. Particular attention is recommended on the topic of permitting, as well as ensuring that references to Provincial legislation (Open Burning Smoke Control) will not be compromised because the Coastal Fire Centre is not in a position to respond.

Staff will obtain any advice necessary to ensure that changes to the template bylaw will not compromise or increase the liability exposure of the Regional District. Final recommendations on the proposed bylaw would be reported back to the Committee in the fall.


Staff will obtain any advice necessary to ensure that changes to the template bylaw will not compromise or increase the liability exposure of the Regional District. Final recommendations on the proposed bylaw would be reported back to the Committee in the fall.

RECOMMENDATION:

That the Fire Chiefs and designated Regional District staff meet to finalize recommendations on the burning bylaw template attached to this report.



Report Writer



CAO Concurrence

**REGIONAL DISTRICT OF NANAIMO
BYLAW NO. XXXX**

**A BYLAW TO REGULATE BURNING IN THE
XXXXXXXXX FIRE PROTECTION
SERVICE**

WHEREAS by Section 798 of the *Local Government Act*, the Board has all necessary powers to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a board or regional district;

AND WHEREAS by Part 15, Division 3, Section 522 a Board may by bylaw, make rules respecting the authority of the fire chief and any matter within the scope of the *Fire Services Act* in a manner not contrary to that Act or the regulations under it;

AND WHEREAS the Board of the Regional District of Nanaimo deems it desirable and necessary to regulate burning in the XXXXXXXXXXXXXXX Fire Protection Service Area;

NOW, THEREFORE, the Board of the Regional District of Nanaimo in open meeting assembled enacts as follows:

1. **Repeal of Prior Bylaw**

“Regional District of Nanaimo (xxxxxxx) Fire Outdoor Burning Bylaw No. xxxx, xxxx” is hereby repealed.

2. **Title**

This bylaw may be cited for all purposes as “XXXXXXXXXXXXXXXXXXXX Burning Bylaw No. XXXX, 2010.

3. **Interpretation**

In this bylaw:

“**Agricultural Clearing Waste Fire**” means an Outdoor Fire in which the only materials burned result from one or more of the following:

- i. Agricultural waste;
- ii. Brush clearing;
- iii. Tree clearing or
- iv. Stump removal

to facilitate agricultural use of the land is burned.

“**Clearing Waste Fire**” means an Outdoor Fire in which waste resulting from brush clearing, tree clearing, or stump removal is burned.

“Commercial Incinerator” means any device, constructed, placed, designed or used for the destruction by fire of industrial, commercial or institutional waste materials, but does not include a crematorium operated in accordance with the Cremation Internment and Funeral Services Act (British Columbia).

Construction Waste Fire” means an Outdoor Fire in which only waste resulting from the demolition or construction of a building or structure is burned.

“Domestic Incinerator” means any metal, masonry or other container used to serve one single family dwelling unit or one two family dwelling [what about tri or fourplexes??] utilizing a metal screen or grill of not more than 9.5 millimetres mesh to restrict any sparks or flying debris.

“Fire Chief” means the person with authority for fire prevention and suppression within the Service Area, or a person designated by the Regional District Board to act in that capacity, or their designates as appointed from time to time

“Fire Danger Rating Sign” means a sign located at the XXXXXXXXXXXX Fire Hall, XXXXXXXXXXX Road, XXXXXXXX, B.C.

“Fire Department” means the fire department providing service to the Service Area.

“Garden Refuse” means non-toxic garden materials gathered from a single lot, which lot does not exceed one hectare in size, and includes grass clippings, leaves, branches pruned from trees and shrubs, and similar garden materials.

“Garden Refuse Fire” means an Outdoor Fire in which garden refuse is burned.

“Mill Waste” includes bark, chips, sawdust and any other discarded wood products.

“Noxious Material” includes tires, oil, tar, asphalt, shingles, batteries, plastic and any other substance which produces heavy black smoke, noxious odours or toxic residues when burned or which is explosive or corrosive when burned.

“Open Flame” includes a candle.

“Outdoor Fire” means every fire that burns in the open air and is not completely enclosed in an incinerator, furnace or other device.

“Public Building” means a warehouse, store, mill, school, hospital, theatre, public hall, office building and any building other than a private dwelling.

“Regional District” means the Regional District of Nanaimo or the Board of the Regional District of Nanaimo or any committee established by the Board of the Regional District of Nanaimo with responsibility for fire services matters.

“Service Area” means the xxxxxxxxxxxx Fire Protection Service established under Regional District of Nanaimo Bylaw No. xxxx and all subsequent amendments.

“**Society Board**” means the Board of Directors of the xxxxxxxxxxxx Volunteer Fire Department.

4. Application

- (1) This bylaw shall apply within the xxxxxxxxxxxx Fire Protection Service Area.
- (2) Where this bylaw and any regulations under the *Fire Services Act* (British Columbia) deal with the same subject matters, any further or more stringent restrictions in this bylaw on the use of property or fire shall have full force and effect.
- (3) In the event of any conflict between this bylaw and the *Waste Management Act*, the *Environmental Management Act* (British Columbia) or a regulation under the *Environmental Management Act*, the *Environmental Management Act* shall in all cases prevail.
- (4) Despite subsection (3) a conflict does not exist solely because this bylaw imposes further conditions or restrictions authorized under the *Local Government Act* or the *Environmental Management Act*.

5. Right of Entry, Inspections and Orders

- (1) The Fire Chief is hereby empowered to enter upon any land or premises for the purpose of making an inspection or investigation:
 - (a) to inspect for conditions which may cause a fire, increase the danger of a fire or increase the danger to persons;
 - (b) to see that any flammable matter is rendered harmless or suitably safeguarded against fire by requiring
 - (i) the erecting of barricades;
 - (ii) the posting of “no admittance” signs; or
 - (iii) any other measures deemed necessary by the Fire Chief.
- (2) The powers of entry under subsection (1) may also be exercised by a person under the authority of the Fire Chief.
- (3) The powers of entry under subsection (1) shall be exercised in accordance with all applicable limitations under the *Local Government Act* or *Community Charter*.
- (4) A Fire Chief may:
 - (a) enter at all reasonable times on any property that is subject to this bylaw, to ascertain whether the regulations in this bylaw or directions made under this bylaw are being observed;

- (b) make orders directing the owners or occupiers of property to bring their premises or a fire into compliance with this bylaw.

6. **No Obstruction**

No person shall obstruct the Fire Chief in making any entry or inspection authorized by this bylaw.

7. **Outdoor Fires**

(1) The following types of Outdoor Fires may be started and maintained at any time without further authorization from the Fire Chief.

- (a) fires contained within a barbecue or fire pit having a surface area not greater than one (1) square meter.
- (b) the occasional ?? [**how to define occasional**] outdoor burning of waste material [**waste material is not a defined term – what is the intent here**] from October 15 in the current year to April 15 of the following year unless proclaimed otherwise by the Fire Chief.
- (c) fires started and maintained by the Fire Department for training purposes or to prevent the commencement or spreading of fire.

(2) Except as authorized in this bylaw no person shall start or maintain an Outdoor Fire:

- (a) unless that person has first obtained written authorization if required from the Fire Chief;
THIS NEEDS DISCUSSION RE PERMITTING ETC
- (b) between sunset of one day and sunrise of the following day;
- (c) between the hours of 12 noon Saturday and sunrise of the following Monday during the months of June, July and August in any year;
- (d) on Canada Day, BC Day or Labour Day;

(3) No person shall start or maintain a fire within a fire pit when the Forest Danger Rating Sign reads “Extreme Conditions”.

(4) Except as provided in this bylaw, no person shall light, ignite, or maintain any Open Flame in any Public Building.

(5) Except for an Outdoor Fire for the burning of waste materials resulting from land clearing, agriculture, logging, or gardening permitted under this bylaw, no person shall burn any waste material other than in a Domestic or Commercial Incinerator.

(6) A pile of material to be burned must not exceed [**which exceeds??**] 1m x 1.3 m (3 ft. x 4 ft.) or larger [**may be authorized ??**] at the discretion of the Fire Chief. [**how does this tie into the Open Burning Regulation requirement – it is not advisable to permit the Fire Chief discretion to authorize a fire up to 10 cu m at which point the bylaw says a person must follow the Open**

Burning Regulation. I have some legal advice which may help here which I will bring to the meeting. See also section (8) below]

- (7) The Fire Chief may permit a larger burn pile where he or she considers that:
 - i. the person carrying out the burning is capable of monitoring and effectively carrying out the burning ; and
 - ii. the conditions are not hazardous
- (8) All Outdoor Fires must be located at least:
 - (a) 5 metres (16 ft.) from any snag, slash, wooden structure, standing timber, grass or shrubbery; and
 - (b) 10 m (33 ft.) from any building structure, overhead wiring or highway;
- (9) The Open Burning Smoke Control Regulation and the Open Burning Smoke Control Code of Practice as defined in that regulation as amended from time to time or as replaced from time to time, apply to a person starting or maintaining an Outdoor Fire over ten (10) cubic metres per hectare of parcel size **[In the absence of other guidance this bylaw make us the regulator of fires up to this size - are we comfortable with that ?]**
- (10) During light up and until all fires are extinguished the person responsible must ensure that there is at least one person at the site who:
 - (a) is at least sixteen (16) years of age or older and is at all times, present at the site when the fire is burning, for the purpose of supervising and extinguishing the fire; and
 - (b) actively patrols to prevent the fire from escaping; and
 - (c) is equipped with the following:
 - i. a shovel;
 - ii. an axe, pulaski, or matlock;
 - iii. a pail containing at least 18 litres of water, or something that is at least equivalent to an 18 litre pail of water, or an operational garden hose of adequate length.
- (11) Before any fires are ignited, the person responsible for the fire must remove all combustible material must be removed for at least 1 meter in every direction from the perimeter of the pile of material to be burned.
- (12) The person lighting, fueling, or making use of the outdoor fire must, immediately on the fire escaping or threatening to escape, provide, in addition to the person patrolling, 2 adult persons with suitable firefighting tools, and must ensure that they make reasonable attempts to extinguish the fire.
- (13) No more than 1 burn pile may be ignited at one time on a single parcel.
- (14) The person responsible for the fire must ensure that all ignited piles have burned down to a smoldering condition before more piles are ignited.

- (15) The person supervising a fire must ensure that the fire is fully and completely extinguished before the person supervising the fire leaves the fire.

8. **Authorization**

- (1) Where permission is required under this bylaw, the Fire Chief may ~~issue a written permit or~~ at his or her discretion provide a verbal authorization for burning. **[this is problematic – all authorizations need to be in writing even if it is an email. Legal advice suggests a ‘registration’ process rather than a permit and followed up with a policy describing “spot checks” if fire is....]**
- (2) Where in the opinion of the Fire Chief the igniting of a fire in any area may create a hazard to persons or property, he/she may:
- i. withhold a permit or authorization for outdoor burning; or
 - ii. or cancel a permit or authorization previously issued
- (3) Despite subsection (1) unless otherwise ordered by the Fire Chief because of dry or hazardous fire conditions a permit is not required for the burning of Garden Refuse under Section (9) not more than once per month between February 15 and April 15 and between October 15 and December 15 in any year.

9. **Garden Refuse Fire**

- (1) In addition to all other requirements in this bylaw a person must not start or maintain a Garden Refuse Fire:
- (a) other than during the periods from February 15 to April 15 inclusive and from October 15 to December 15 inclusive, in each year;
 - (b) a Garden Refuse Fire shall not exceed two (2) square meters in area and shall only be used to burn garden refuse originating on the parcel where the fire is located and no other material.

10. **Noxious Material**

A person must not burn any Noxious Material in an Outdoor Fire.

11. **Construction or Clearing Waste Fire**

A person must not start or maintain a Construction Waste Fire or a Clearing Waste Fire at any time.

12. **Agricultural Clearing Waste Fire**

In addition to all other requirements of this bylaw a person must not start or maintain an Agricultural Clearing Waste fire : [Agricultural fires are governed through the Farm Act so these sections may be unnecessary – this is being verified.]

- (1) unless that person has first obtained a permit(??) from the Fire Chief. **[Discussion point re permits]**
- (2) The Fire Chief may grant authorization for an Agricultural Clearing Waste Fire where the proposed fire complies with this bylaw and the fire Chief has not issued an order banning an Outdoor Fire.

14. **Use of Incinerators**

- (1) A fire in a Domestic Incinerator may be started and maintained at any time subject to the following:
 - (a) A person must not start or maintain a fire in a Domestic Incinerator when the Forest Danger Rating Sign reads "Extreme Conditions".
 - (b) A person must not start or maintain a fire in a Domestic Incinerator within 10 meters (33 feet) of any building, structure, overhead wiring or highway;
 - (c) A person must not start or maintain a fire in a Domestic Incinerator unless a person of sixteen (16) years of age or older is, at all times, present at the burning site when the fire is burning, for the purpose of supervising and extinguishing the fire.
- (2) A fire in a Commercial Incinerator may be started and maintained at any time.
- (3) Where, in the opinion of the Fire Chief, any Commercial Incinerator is likely to create or become a fire hazard due to damage, deterioration, lack of maintenance, construction or location, the Fire Chief may:
 - (a) direct the owner of the Commercial Incinerator to alter, renovate, repair or relocate the incinerator: or
 - (b) order the owner of the Commercial Incinerator to discontinue its use and remove it from the land.
- (5) An owner of any Commercial Incinerator or a person supervising burning at a Commercial Incinerator must comply with the direction or order of the Fire Chief.

15. **Deposit of Mill Waste**

- (1) Where any person has lawfully deposited any Mill Waste, he or she shall ensure that:
 - (a) no deposit has a depth greater than 3 meters (10 feet);
 - (b) within one week, nonflammable cover material of at least 305 millimeters (1 foot) in thickness is applied to the deposit.

16. **Offence**

Any person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses or omits or neglects to fulfill, observe, carry out or perform any duty imposed by this bylaw, shall be liable on summary conviction to a fine not exceeding two thousand dollars (\$2,000.00).

17. **Severability**

If for any reason any section or subsection of this bylaw is held to be invalid by a Court of competent jurisdiction, it shall be severed from the bylaw and shall not affect the validity of the remaining parts of this bylaw or of this bylaw as a whole.

Introduced and read three times this day of , 2012.

Adopted this day of ,2012.

CHAIRPERSON

SR. MGR., CORPORATE ADMINISTRATION