

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2783

A Bylaw to provide for fire protection and control

The Council of the Corporation of the Township of Esquimalt, in open meeting assembled, enacts as follows:

Title

1. This Bylaw may be cited as the "FIRE PROTECTION AND CONTROL BYLAW, 2011, NO. 2783."

Definitions

2. In this Bylaw, unless the context otherwise requires:

"animal organic waste" means solid organic waste material of animal origin and includes flesh, carcass, offal, hides and feathers.

"apparatus" means any vehicle provided with machinery, devices, equipment or materials for fire fighting as well as vehicles used to transport fire fighters or supplies.

"approved" means approved and acceptable to the Fire Chief of the Municipality.

"building" means a structure that is used or intended to be used for supporting or sheltering persons or animals or property, except those prescribed by regulation as exempted from the Building Code.

"chiminea" means a container made of pottery or metal containing a fire box and flu in a design for the purposes of burning a solid fuel.

"construction or demolition waste" means woodcuttings, sawdust, packaging, building materials and other waste items or discarded materials produced in the construction, repair, renovation, or demolition of a building or structure.

"Council" means the Council of the Corporation of the Township of Esquimalt.

"dangerous goods" means any product, substance or organism which is of a highly combustible and flammable, or explosive nature, all as set out in the Fire Code and the National Fire Protection Association (N.F.P.A.) codes and any other material which, because of the toxic or other inherent characteristics, constitutes a fire hazard or a hazard to life safety or health and without restricting the generality of the foregoing:

- (1) Includes liquid chlorine, compressed natural gas, liquefied natural gas, liquefied petroleum gas, and

- (2) For the purposes of this Bylaw and in conformity with the classification of the dangerous good in an Act to Promote Public Safety in the Transportation of Dangerous Goods, as classified as follows:

Class 1 Explosives, including explosives within the meaning of the *Explosives Act*.

Class 2 Gases, including compressed gases, liquefied petroleum, liquefied natural gas, liquefied or dissolved gases under pressure.

Class 3 Flammable liquids and combustible liquids.

Class 4 Flammable solids, including substances liable to spontaneous combustion, substances that on contact with water emit flammable gases.

Class 5 Oxidizing substances, including organic peroxides, chlorates, nitrates.

Class 6 Poisonous (toxic) and infectious substances.

Class 7 Radioactive materials, including prescribed substances within the meaning of the *Atomic Energy Control Act*.

Class 8 Corrosives.

Class 9 Miscellaneous dangerous goods or organisms not included in any of the above classes.

"domestic incinerator" means a container used in the burning of material in the open air and serving any dwelling unit occupied by a single-family or two-family dwelling unit.

"equipment" means any tools, contrivances, devices or materials used by the Fire Department to combat an incident or other emergency.

"Fire Chief" means the person duly appointed as such from time to time by Council and includes any person appointed by Council as Deputy Fire Chief and also includes any person appointed by the Fire Chief as Assistant Chief to act on his/her behalf on a temporary basis from time to time.

"Fire Code" means the B.C. Fire Code and Regulations adopted thereto, and any amendments as adopted by Order in Council.

"Fire Department" means and includes any member, or officer of the Police Department authorized by the Fire Chief to act for him and the Fire Department and members of any other municipal corporation, or of any member of the Fire Department of the Government of Canada attending at fires within the Municipality.

"Fire Services Act" means the *Fire Services Act*, R.S.B.C. 1996, C.144 and all Regulations passed thereunder, and amendments thereto as adopted by the Province of British Columbia.

"foreshore" means the area of land lying between the low water mark and the high water mark of the ocean.

"garbage" means refuse from a household including meat, vegetable matter, egg shells, plastics and packaging.

"garden refuse" means refuse from the garden, including decaying vegetable matter, leaves or branches.

"gas regulatory authority" means the Ministry which provides for an inspection service and has the authority to require an inspection of regulated work in respect of gas in an area of British Columbia.

"incident" means a fire, building collapse, or a situation where a fire, building collapse or explosion is imminent, and includes a rescue, a threat to life situation and a call for assistance.

"member" means any person or officer that is duly appointed by the Fire Chief as a member of the Fire Department and is an employee of the Municipality.

"Municipality" means the Corporation of the Township of Esquimalt.

"Officer" means Assistant Fire Chief or Lieutenant of the Fire Department.

"Officer in Command" means the highest ranking officer in attendance at an incident, or in the absence of an officer, the most senior member in attendance at the incident.

"opacity" is the degree to which the visibility of the background, viewed through the plume of smoke, is reduced.

"owner" means, in respect of any real property, the registered owner of an estate in fee simple, and in the event of there being registered a life estate includes the tenant for life. In the event that there is registered an agreement for sale and purchase, "owner" shall mean the registered holder of the last registered agreement for sale and purchase.

"open air burning" and "in the open air" means any burning of any kind, of any material, for any purpose that takes place outside of a building, structure, accessory building or commercial establishment.

"peace officer" means the Fire Chief or any person employed by the Municipality as a Bylaw Enforcement Officer or any Municipal Police Officer or member of the RCMP.

"permit" means a document issued pursuant to this Bylaw authorizing a person to carry on a procedure or undertaking under specified terms and conditions.

"person" includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to the law.

"premises" means a building together with its grounds and appurtenances.

"solid fuel burning device" means a device that burns wood, coal or any other non-gaseous or non-liquid fuels, and includes any device burning any solid fuel used for aesthetic or space heating purposes within a private residence or commercial establishment or accessory building, and includes a fireplace, wood stove, chiminea, fireplace insert or wood heater.

“treated wood” means wood of any species that has been chemically impregnated, painted or similarly modified, or milled or processed lumber.

PART I - ADMINISTRATION

Application

3. This Bylaw and the provisions contained herein, as may be amended from time to time, shall apply throughout the boundaries of the Municipality.

Fire Department

4. The Fire Department of the Municipality as established by the Council is hereby confirmed and continued pursuant to Section 8 of the *Community Charter*.

Fire Department Responsibilities

5. The Fire Department is authorized to:
 - (1) Take all proper measures to prevent, control and extinguish fires;
 - (2) Provide assistance in response to:
 - (i) medical emergencies
 - (ii) land rescue operations
 - (iii) requests for aid from other fire services and rescue operations
 - (iv) hazardous materials incidents; and
 - (v) requests for public service.

Fire Chief

6. The position of Fire Chief as established by the Council is hereby confirmed.

Responsibilities and Duties of Fire Chief

7. The Fire Chief is responsible for the efficient management of the Fire Department including the members, property, apparatus and equipment and for the provision of fire prevention and protection services to the Municipality.
8. The Fire Chief shall ensure that the Fire Department is staffed with trained members in accordance with Council policy and direction and applicable legislation and regulations.
9. The Fire Chief shall establish rules, regulations and policies necessary for the proper organization, administration and operation of the Fire Department including but not limited to:
 - (1) the use, care and protection of Fire Department property, apparatus and equipment;
 - (2) the safe and efficient operation of the Fire Department; and

- (3) the recruitment, training, conduct, discipline and, subject to prior approval by the Municipality's Chief Administrative Officer, termination of Officers and members of the Fire Department.
10. The Fire Chief is responsible for all fire protection and prevention matters including the enforcement of this Bylaw and of the *Fire Services Act*, and shall assume the responsibilities of the Local Assistant to the Fire Commissioner.
11. In accordance with Section 66 of the *Community Charter*, the Fire Chief is hereby authorized to exercise the following powers:
 - (1) enter on property and inspect premises for conditions that may cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire;
 - (2) take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fire;
 - (3) require an owner or occupier of real property to undertake any actions directed by the Fire Chief for the purpose of removing or reducing any thing or condition that the Fire Chief considers is a fire hazard or increases the danger of fire; and
 - (4) exercise the powers of the fire commissioner under section 25 of the *Fire Services Act*.
12. The Fire Chief is responsible for reviewing applications for building and development permits to ensure compliance with the Fire Code.

Delegation of Inspection Duty to Fire Chief

13. Council hereby delegates to the Fire Chief the duty to provide for a regular system of inspection of hotels and public buildings in the Municipality in accordance with Section 26(1) of the *Fire Services Act*.

System of Inspection of Buildings and Premises

14. In addition to the inspections required by Section 26 of the *Fire Services Act*, the Fire Chief may institute and maintain a regular system of inspection of buildings and premises within the Municipality in order to discover and order the removal or correction of any conditions constituting a fire hazard.

Appointment and Accountability of Officers and Members

15.
 - (1) The Fire Chief and Deputy Fire Chief shall be appointed by Council.
 - (2) Officers shall be appointed by the Fire Chief, as vacancies occur or as needs dictate, and subject to compliance with the approved Municipal financial plan.
16. All Officers are responsible for ensuring that all applicable Municipal Bylaws and Fire Department policies, procedures, rules and regulations are complied with by members.

Fire Chief May Appoint Assistant Chiefs

17. The Fire Chief may appoint any Officer as Assistant Chief on a temporary basis from time to time to act on his/her behalf in his/her absence.

Jurisdiction of Fire Department

18. The limits of the jurisdiction of the Fire Chief, and the officers and members of the Fire Department, will extend to the area and boundaries of the Municipality, and no part of the Fire Department apparatus shall be used beyond the limits of the Municipality without:
 - (1) the express authorization of a written contract or agreement providing for the supply of fire fighting services outside the Municipal boundaries;
 - (2) the approval of Council; or
 - (3) in an emergency, the approval of the Mayor or Acting Mayor.

PART 2 - FIRE PROTECTION**Control, Direction and Management at Incident**

19. The Fire Chief, or any Officer in Command, shall have control, direction and management of all Fire Department apparatus, equipment, and members assigned to an incident and, where an Officer in Command is in charge, he/she shall continue to act until relieved by a senior officer.

Authorization to Enter onto Premises and Property

20. The Fire Chief, or any Officer in Command, is empowered to enter in or upon premises or property where an incident occurred or where an alarm of an incident has been received or which the Fire Chief or Officer in Command has reasonable grounds to suspect that an incident exists, with or without permission from the owner or occupier and to cause any member, apparatus or equipment of the Fire Department to enter and to take whatever action or measures he/she deems necessary in order to investigate, combat, control or deal with the incident.
21. The Fire Chief and any Officer in Command is empowered to enter, pass through or over buildings or property adjacent to an incident and to cause any member and the apparatus and equipment of the Fire Department to enter or pass through or over buildings or property, where he/she deems it necessary to gain access to the incident or to protect any person or property.

Obstruction of Fire Department in Performance of its Duties

22. No person shall impede, obstruct, abuse or in any way hinder the Fire Chief, any Officer in Command, or any Officer or member of the Fire Department in attendance at any incident, or any other person under the direction of the Fire Chief or Officer in Command in the performance of their duties.

23. No person shall refuse to permit the Fire Chief or anyone under the direction of the Fire Chief from entering upon any building or property for the purpose of:
- (1) making an inspection or investigation for conditions which may cause a fire, increase the danger of a fire or increase the danger to persons, or
 - (2) making an inspection to ensure any flammable matter is rendered harmless or suitably safeguarded against fire.

Orders and Direction

24. The Fire Chief and any Officer or Command may make such orders or give such direction as are deemed in his/her discretion to be reasonably necessary to ensure any flammable matter is rendered harmless or suitably safeguarded against fire.

Failure to Comply with Order or Direction

25. Any person who fails to comply with an order or direction of the Fire Chief, any Officer in Command, or any Officer or member of the Fire Department engaged at any incident, may be forcibly removed from the scene of any such incident by a peace officer, Officer or member of the Fire Department.

Evacuation of Buildings

26. (1) The Officer in Command is empowered to order the evacuation of any building that is directly involved with fire or other risk to life.
- (2) The Fire Chief is empowered to order the evacuation of any building, structure, property or area which in his/her opinion is endangered by fire or other risk to life.
- (3) In such case no person, other than the Fire Chief, the Officer in Command, an Officer or member of the Fire Department, peace officer, or other person authorized by the Fire Chief or Officer in Command, shall remain in or shall enter such building, structure, property or area.

Demolition of Adjacent Buildings

27. The Fire Chief at any incident, is empowered to cause a building, structure or thing to be pulled down, demolished, or otherwise removed if he/she deems it necessary to prevent the spread of an incident to any other building, structure or thing, or to protect any person.

Commandeering of Privately Owned Equipment

28. The Fire Chief at any incident is empowered to commandeer privately owned equipment which he/she considers necessary in order to deal with such incident.

Access for Fire Fighting

29. No person shall obstruct or otherwise interfere with access roads or streets or other approaches to any incident, fire hydrant, cistern or body of water designated for fire fighting purposes.

Duty to Provide Assistance

30. The Fire Chief or any Officer in Command may order any person to assist in the fighting of any fire or in the preserving of any property threatened by an incident, or to assist in the salvaging and safeguarding of property so threatened.

Impeding Fire Department Equipment

31. No person shall obstruct, impede or interfere with any Fire Department apparatus or equipment while responding to or while engaged in the prevention, control or extinguishment of an incident.

Interference with Access to Buildings or Premises

32. No person shall sit or stand or place or leave any article, thing or matter, in such a manner as to interfere with the means of ingress or egress within or outside any building or premises.

Duty of Owners or Occupiers

33. The owners or occupiers of any real property shall remove any matter or thing from a building or premises which constitutes a fire hazard and shall maintain and clean chimneys, flues and other apparatus or things in order to reduce the risk of fire.

Vacant Buildings

34. The owner of any vacant building in the Municipality shall at all times keep the building free from debris and flammable material, and shall keep all openings in the building securely closed and fastened so as to prevent the entry of unauthorized persons.

Containers for Collection of Combustible Refuse

35. (1) All containers used for the collection of combustible refuse in quantities exceeding 140 litres shall be constructed entirely of solid sheet non-combustible material.
- (2) Each container shall have easy closing lids that must be operational at all times.
- (3) Containers shall be located at least 3 metres from any building or fuel supply tank unless otherwise approved by the Fire Chief.
- (4) Containers equipped with self-closing lids may be located within 1 metre of a building or fuel supply tank.

Fire Safety Plans

36. Where the Fire Code requires the owner of a property to establish fire emergency procedures and prepare and maintain a fire safety plan, the owner shall submit to the Fire Department a detailed fire safety plan, together with a record of emergency systems installed within a building and the applicable fee as set out in Schedule A hereof, for review and approval prior to implementation of such plan.

False Alarms

37. No person shall, without reasonable cause, make or circulate or cause to be made or circulated, any alarm of fire by outcry, ringing of bells, sounding of alarms or otherwise.

PART 3 – CONTROL OF BURNING**Burning Restrictions**

38. (1) No person shall at any time within the Municipality light, ignite, start or maintain, or knowingly permit, allow or cause to be lit, ignited, started or maintained, any fire of any kind whatsoever in the open air or in an appliance, container or device in the open air, without first having obtained a permit from the Fire Chief.
- (2) Except as provided in this Bylaw, no person shall burn any of the following materials in a solid fuel burning device, a domestic incinerator or in an open air fire:
- (i) treated wood
 - (ii) plastic or rubber products
 - (iii) garbage
 - (iv) garden refuse
 - (v) construction or demolition waste
 - (vi) animal organic waste
 - (vii) paints or solvents
 - (viii) paper products, other than to start a fire; or
 - (ix) dangerous goods.
- (3) The burning of construction or demolition waste is prohibited.
- (4) The Fire Chief may issue a permit on such terms and conditions he/she feels are reasonably necessary for the protection of safety for open air fires for the purpose of:
- (i) disease and pest control;
 - (ii) fire suppression training;
 - (iii) ethnic and cultural observances; and
 - (iv) special events.
- (5) The Fire Chief may, where he/she deems it expedient to do so, order that no burning is to occur within the Municipality for an indefinite or a specified period of time, and any previously issued permits cease to be effective as of the date of such order.
- (6) Notwithstanding clause (1), an outdoor appliance that uses charcoal briquettes or is fueled by and burns natural gas or propane, for residential use only is permitted without a permit provided that it sits on a firm non-combustible base.
- (7) This Bylaw shall not apply to burning by the Municipality for municipal purposes or Fire Department training, or to the burning of natural gas or propane in an appliance or device that is regulated by the gas regulatory authority.

Supervision and Control

39. Any person in the possession of a valid and existing permit issued by the Fire Chief shall ensure that a competent person is at all times in charge of and supervising such fire until the fire is completely extinguished, and shall provide such person with sufficient labour, apparatus and equipment to effectively prevent the fire from getting beyond control or causing damage or becoming dangerous to life or property.

Distance Requirement

40. No person shall permit any fire to be located within 6 metres of any building or within 1 metre of any shrubbery, tall grasses, fence, or other combustible material.

Nuisances from Emission of Smoke and Ash

41. (1) No person shall cause or allow burning to continue where such burning constitutes an interference with, or obstruction of, a person's reasonable and comfortable use and enjoyment of property through the emission of offensive, annoying, unpleasant or obnoxious smoke or ash.
- (2) No person shall permit the emission of smoke of such opacity as to obscure an observer's view of the background through the smoke to a degree of greater than 20%.
- (3) The Fire Chief may order the suppression of any fire, and in the event such person to whom the order was issued fails to comply with such order to the satisfaction of the Fire Chief, the Fire Chief may cause such fire to be immediately suppressed and the costs of doing so shall be paid by the person to whom the order was issued.

Fires on the Foreshore

42. (1) No person shall ignite or maintain any fire on the foreshore without first having obtained a permit from the Fire Chief.
- (2) It shall be a condition of every permit for a fire on the foreshore that:
- (i) the fire not be located within 45 metres (150 feet) of any building; or
 - (ii) the fire not be located within 3 metres (10 feet) of any driftwood, dry vegetation, grass or any other combustible material unless the fire is contained within a receptacle approved in design and location by the Fire Chief;
 - (iii) the fire shall be completely extinguished by 11:00 p.m.; and
 - (iv) the permit holder personally attends the fire until it is completely extinguished by water.
- (3) A permit for any fire on the foreshore shall be valid only on the date specified on the permit.

Dangerous Goods

43. Where the Fire Chief or Officer in Command is satisfied on reasonable and probable grounds that a discharge, emission or escape of dangerous goods has occurred and that immediate action is necessary in order to carry out any reasonable emergency measures, he/she may take any such measures or request that any such measures be taken by any person he/she considers qualified to do so.
44. It is the duty of the occupier, or if none, the owner of the property, building, premises, motor vehicle, vessel or railway rolling stock, to report immediately to the Fire Chief when an explosion, discharge, emission, escape or spill of dangerous goods occurs and to similarly report to the Fire Chief where the potential for an explosion or a discharge, emission, escape or spill of dangerous goods exists by reason of abnormal or unusual circumstances.

PART 4 – PERMITS, INSPECTIONS AND FEES**Schedule of Fees**

45. The fees as set out in Schedule A hereof, which forms part of this Bylaw, shall be applicable to the provision of services and issuance of permits as set out in this Bylaw, and such applicable fees shall be payable at the time of application for permits or immediately upon receipt of an invoice from the Municipality.

Oil Burning Equipment

46.
 - (1) No person shall install, alter or remove an oil burner, oil burning equipment or oil tank without first having obtained a permit to do so issued by the Fire Chief.
 - (2) No permit required by this Bylaw shall be issued to any person, tenant, occupier or owner of any premises or any installer for the installation, removal or alteration of any oil burner, oil burning equipment or oil tanks until the permit fees and applicable inspection charges set out in Schedule A have been paid to the Municipality.

Investigation of Fires

47. Pursuant to the *Fire Services Act*, in every instance that a fire investigator conducts a fire investigation, the applicable fee set out in Schedule A hereof will be charged to the owner for fire investigation services.

PART 5 - ENFORCEMENT

48. The Fire Chief may remove or seize any item that in his/her opinion will prevent the continuation of any non-compliance with any terms of this Bylaw.

Issuance of Order

49.
 - (1) Where the Fire Chief finds that any provision of this Bylaw has been contravened or has not been complied with or that conditions exist in or upon a building,

premises or property and which, in his/her opinion, constitutes a fire hazard or otherwise constitutes a hazard to life and/or property, he/she may make such order as deemed necessary to ensure compliance with this Bylaw or the elimination of the hazard.

- (2) An order under this Bylaw shall be in writing and shall be directed to either the owner, occupier or lessee of the building, premises or property in respect of which the order is made, or to both.
- (3) Where an owner or occupier or lessee fails to comply with any order made pursuant to this Bylaw, the Municipality may cause the order to be carried out and the costs of such shall be paid by the owner, occupier or lessee to whom the order was issued.
- (4) Any expenses incurred by the Municipality in carrying out an order, if not paid by the owner, occupant or lessee to whom the order was issued within 30 days of being invoiced therefore by the Municipality, may be recoverable in the manner provided by Sections 258 and 259 of the *Community Charter*.

Service of Order

50. An order made under this Bylaw shall be served by:

- (1) Delivering or causing it to be delivered personally to the person to whom it is directed;
- (2) Sending the order by registered mail to the last known address of the person to whom it is directed; or
- (3) Posting a copy in a conspicuous place on the building, premises or property to which it relates, if the person to whom it is directed cannot be found, is not known or refuses to accept service of the order personally or by registered mail.

Removal of an Order

51. Where an order has been duly issued and posted pursuant to this Bylaw, no person may remove, deface, cover or destroy the order.

False Representation

52. No person shall falsely represent themselves as an Officer or member of the Fire Department.

Offence and Penalty

53. Any person who violates any provision of this Bylaw, or who suffers, causes or permits any act or thing to be done in contravention of this Bylaw, or who neglects to do or refrains from doing any act or thing which is required to be done by any of the provisions of this Bylaw, is guilty of an offence.

54. Every person convicted of an offence under this Bylaw shall be liable upon summary conviction to a fine not exceeding Two Thousand Dollars (\$2,000.00).

55. Where any violation continues, each day in which it continues shall be deemed to be a separate offence.

Repeal

56. The "FIRE PROTECTION AND REGULATION BYLAW, 1989, NO. 1898," and amendments thereto, are hereby repealed.

Read a first time on the 12th day of December, 2011.

Read a second time on the 12th day of December, 2011.

Read a third time on the 12th day of December, 2011.

ADOPTED on the 16th day of January , 2012.

BARBARA DESJARDINS
MAYOR

ANJA NURVO
CORPORATE OFFICER

FIRE PROTECTION AND REGULATION BYLAW, 2011, NO. 2783**SCHEDULE A****FEES**

(1)	Permit for installation, alteration or removal of oil burner, oil burning equipment or oil tank, including inspection fees	\$50.00
(2)	Any required re-inspection of permit issued under clause (1)	\$25.00
(3)	Written report requested for oil burner, oil burning equipment or oil tank inspections	\$50.00
(4)	Review of a new fire safety plan	\$100.00
(5)	Review of an existing or amended fire safety plan	\$50.00
(6)	Review of plans for building and development permit	\$200.00
(7)	Inspections requested for the purposes of purchase, sale, financing or refinancing of any building or property	\$100.00
(8)	Written report requested for the purposes of purchase, sale, financing or refinancing of any building or property	\$50.00
(9)	Request for research/creation of document	\$100.00
(10)	Fire Investigation – for each fire investigator, in excess of initial 2-person hours	\$100.00/hour
(11)	Permit for fire on the foreshore	\$10.00