

DATE: April 11, 2019
TO: Chair and Directors
Electoral Areas Services Committee
FROM: Russell Dyson
Chief Administrative Officer

FILE: 7200-20/Cumberland

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Municipal Ticket Information Bylaw Amendment for Rural Cumberland Fire Protection

Purpose

To propose an amendment to Bylaw No. 104 being the “Comox Valley Regional District Municipal Ticket Information Bylaw No. 104, 2010” to designate offenses and set fine amounts for the regulations pertaining to the Rural Cumberland Fire Protection Service.

Recommendation from the Chief Administrative Officer:

THAT the board consider giving readings to Bylaw No. 578 being “Comox Valley Regional District Municipal Ticket Information Bylaw No. 104, 2010, Amendment No. 15” as attached to the staff report dated April 11, 2019.

Executive Summary

The Comox Valley Regional District (CVRD) established the Rural Cumberland Fire Protection Service in 2011 and adopted a regulations bylaw (Appendix B) in 2013 for the administration of the service. The service provides fire protection services to approximately 450 residential properties, the Cumberland Lake Park Campground and the Courtenay Fish and Game Club in defined portions of Electoral Areas A and C. The service is provided through contract with the Village of Cumberland’s Fire Department.

As part of the planning for the upcoming fire season, staff have identified the limited enforcement capabilities of the Fire Chief and other designated positions due to the absence of an offense and fine schedule within the Comox Valley Regional District Municipal Ticket Information Bylaw No. 104.

The proposed amendment to Bylaw No. 104 will enable the full implementation of the regulations bylaw through the issuing of tickets for contraventions of the regulations in similar manner to the other CVRD local area fire services. The proposed amending bylaw is provided in Appendix A, attached to this staff report.

In addition to the changes noted above, a minor housekeeping correction is also proposed with this bylaw

amendment to reference the complete list of schedules to the Municipal Ticket Information Bylaw.

Prepared by:

Concurrence:

Concurrence:

J. Martens

Jake Martens
Manager of Legislative Services

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Attachments: Appendix A – “Draft Bylaw No. 578 being “Comox Valley Regional District Municipal Ticket Information Bylaw No. 104, 2010, Amendment No. 15”

Appendix B: “Rural Cumberland Fire Service Regulations Bylaw No. 258, 2013”

COMOX VALLEY REGIONAL DISTRICT

BYLAW NO. 578

A bylaw to amend the municipal ticket information bylaw to reference the current fire regulations bylaw of the Rural Cumberland Fire Protection Service

WHEREAS the Comox Valley Regional District adopted Bylaw No. 104 being the “Comox Valley Regional District Municipal Ticket Information Bylaw No. 104, 2010” on April 27, 2010;

AND WHEREAS the board desires to update the bylaw to reference the current fire services regulations bylaw of the Rural Cumberland Fire Service;

NOW THEREFORE the board of the Comox Valley Regional District in open meeting assembled enacts as follows:

Amendment

1. Bylaw No. 104 being “Comox Valley Regional District Municipal Ticket Information Bylaw No. 104, 2010” is hereby amended by:
 - a) Replacing the following under Penalty, section 8(1):

“schedules 2 through 19”

with the following:

“schedules 2 through 22”
 - b) Replacing Schedule 21 which reads as follows:

Column A Offence	Column B Bylaw section no.	Column C Amount of fine
Failing to comply with a prohibition on high risk activities	15(e)	\$500.00



Rural Cumberland Fire Service
Regulation Bylaw

The following is a consolidated copy of the rural Cumberland fire protection service bylaw and includes the following bylaws:

Bylaw No.	Bylaw Name	Adopted	Purpose
258	Rural Cumberland Fire Service Regulation Bylaw No. 258, 2013	July 30, 2013	To establish regulations for the rural Cumberland fire protection service
532	Rural Cumberland Fire Service Regulations Bylaw No. 258, 2013, Amendment No. 1	June 5, 2018	To amend the Rural Cumberland Fire Protection Service Regulations to regulate high-risk activities in order to protect public health and safety and property

This bylaw may not be complete due to pending updates or revisions and therefore is provided for reference purposes only. THIS BYLAW SHOULD NOT BE USED FOR ANY LEGAL PURPOSES. Please contact the corporate legislative officer at the Comox Valley Regional District to view the complete bylaw when required.

COMOX VALLEY REGIONAL DISTRICT

BYLAW NO. 258

WHEREAS the board of the Comox Valley Regional District established the rural Cumberland fire protection service by adopted Bylaw No. 192 being "Rural Cumberland Fire Protection Service Establishing Bylaw No. 192, 2011" on December 13, 2011;

AND WHEREAS the service is to be provided within the service area by the fire department of the Village of Cumberland under an agreement under the *Local Government Act*;

NOWHEREFORE the board of the Comox Valley Regional District, in open meeting assembled, enacts as follows:

CITATION

1. This Bylaw No. 258 may be cited for all purposes as "Rural Cumberland Fire Service Regulations Bylaw No. 258, 2013".

INTERPRETATION AND GENERAL REGULATIONS

Definitions

2. In this bylaw:

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

"**approved**" means approved by the fire chief

"**building**" means any structure used or intended for supporting or sheltering any use or occupancy

"**building code**" means the current version of the British Columbia Building Code adopted as a regulation under the *Local Government Act*, as amended or replaced from time to time

"**campfire**" means a fire not exceeding one meter in diameter and one meter in height used for the purpose of cooking or to provide heat and light associated with camping, backyard fire pits and recreation

"**combustible material**" means any material which is capable of catching fire and burning

"**domestic waste**" means any combustible material that is generated on or within a residential property and includes, but is not limited to, yard clippings, tree branches and limbs, but does not include any debris that results from land clearing activities

"**equipment**" means any tools, contrivances, devices or materials used by the fire department to combat any incident or other emergency

"**extraordinary fire**" means a fire response call that, in the opinion of the fire chief, acting reasonably, requires any of the use of:

- foam or fire retardant gels

- fire crew and fire truck
- specialized machinery
- mutual aid resources

materially beyond what is typically required to respond to a fire in the Village of Cumberland

“**extraordinary fire costs**” means costs, over and above those costs associated with a fire that is not an extraordinary fire

“**fire chief**” means a person appointed by the regional district board of directors to be in charge of the fire department and the firefighting personnel of the regional district, and includes a deputy fire chief and any other person authorized to act on behalf of the fire chief

“**fire code**” means the current version of the British Columbia Fire Code adopted as a regulation under the *Fire Services Act*, as amended or replaced from time to time

“**fire department**” means the Comox Valley Regional District fire rescue established by this bylaw

“**high risk activity**” means mechanical brushing; disk trenching; preparation or use of explosives; using fire- or spark-producing tools, including cutting tools; using or preparing fireworks or pyrotechnics; grinding, including rail grinding; mechanical land clearing; clearing and maintaining rights of way, including grass mowing; any of the following activities carried out in a cutblock excluding a road, landing, roadside work area or log sort area in the cutblock:

- i. operating a power saw;
- ii. mechanical tree felling, woody debris piling or tree processing, including delimiting;
- iii. welding;
- iv. portable wood chipping, milling, processing or manufacturing;
- v. skidding logs or log forwarding unless it is improbable that the skidding or forwarding will result in the equipment contacting rock;
- vi. yarding logs using cable systems

“**incident**” means a fire, explosion, human made disaster, natural disaster or any event, situation or emergency that constitutes or may constitute a threat to life, property, the environment or any combination thereof, where the fire department has attended

“**land clearing activities**” means any tasks or activities associated with commercial or industrial forestry or agricultural operations or in relation to land development

“**member**” means any person appointed by the fire chief as a member of the fire department

“**nuisance**” includes the emission into the atmosphere of smoke which disturbs the comfort or convenience of persons in the vicinity

“**officer**” includes the fire chief, deputy fire chief or captain, and any person appointed as a bylaw enforcement officer by the board of the regional district

“**open burning**” means the combustion or burning of any substance or materials in the open air by any means

“**permit holder**” means a person holding a valid permit issued under this bylaw

“**peace officer**” includes a police officer, police constable, constable or other person employed for the preservation and maintenance of the public peace

“**regional district**” means the Comox Valley Regional District

“**scene security costs**” means costs associated with securing a fire-damaged premise from unauthorized entry

“**smoke**” means the gases, particulate matter and all other products of combustion emitted into the atmosphere when a substance or material is burning, including smoke, dust, gas, spark, ash, soot, cinders, fumes or other effluvia.

Interpretation

3. Unless otherwise defined, all words and phrases in this bylaw must be construed in accordance with the meanings assigned to them by the current building code, the *Fire Services Act* or the fire code, as the context and circumstances may require.

Adoption of fire code

4. The fire code, as amended or replaced from time to time, is adopted and made part of this bylaw as a fire regulation of the regional district.

Application

5. The provisions of this bylaw apply to all buildings, structures, premises and conditions within the regional district and, for certainty, apply equally to existing buildings and buildings under construction.

Conflict

6. In the event of a conflict, discrepancy, variation or inconsistency between this bylaw and the *Fire Services Act*, the fire code or the building code, as the case may be, prevail over the provisions of this bylaw to the extent of any conflict, discrepancy, variation or inconsistency.

Severability

7. Should any section or provision of this bylaw be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the bylaw as a whole or any part thereof, other than the part so declared to be invalid.

Gender and number

8. Wherever the singular or masculine is used in this bylaw, the same shall be construed as meaning the plural, feminine or the body corporate or politic where the context or the parties so require.

ESTABLISHMENT AND ADMINISTRATION OF THE FIRE SERVICE

Jurisdiction

9. This bylaw applies within the service area established by Bylaw No. 192 being "Rural Cumberland Fire Protection Service Establishing Bylaw No. 192, 2011."

Fire chief

10. (1) Subject to section 10(2), the board may, by resolution, appoint a suitable person to hold the position of fire chief, who is designated an officer of the regional district.
- (2) During the term of an agreement for fire protection services to be provided by the Village of Cumberland, the fire chief for the Village of Cumberland shall be the fire chief for the purposes of this bylaw.
- (3) The fire chief is responsible for the administration of this bylaw and all inspections required under this bylaw.

Powers of the fire chief

11. The fire chief, or any member of other person authorized by the fire chief to act in his or her place, may exercise one or more of the following powers:
- (a) enter on property at all reasonable times 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;
 - (b) take all measures considered necessary for the prevention, control and extinguishment of fires and for the protection of life and property;
 - (c) require an owner or occupier of real property to undertake any actions directed by the fire chief or other authorized member for the purpose of removing or reducing anything or condition that person considers is a fire hazard or increases the danger of fire;
 - (d) exercise some or all of the powers provided to the fire chief by the *Fire Services Act* including all powers of the fire commissioner under section 25 of that act, and for these purposes that section applies;
 - (e) enforce the provisions of the *Fire Services Act*, the fire code, this bylaw and other bylaws, rules, orders and regulations for the prevention and suppression of fire and the protection of life and property;
 - (f) provide for assistance response to incidents;
 - (g) inquire into, investigate and record the causes of fires in the regional district;
 - (h) collect and disseminate information in regard to fires in the regional district;
 - (i) investigate and hold inquiries into fires; and
 - (j) provide advice and make recommendations to the regional district manager of fire services, other officers and employees of the regional district and the public in relation to:

- (i) the establishment and administration of fire brigades and departments;
- (ii) the provision of adequate water supply and pressure;
- (iii) the installation and maintenance of fire protection equipment;
- (iv) the enforcement of measures for the prevention or suppression of fire and the protection of life and property; and
- (v) fire prevention generally.

Operations and procedures

12. (1) The fire chief or, in his or her absence, the senior ranking member present, shall have control, direction and management of all apparatus, equipment and manpower assigned to an incident and, where a member is in charge, he or she must continue to act until relieved by a more senior member.
- (2) The fire chief or any other member in charge at a fire is empowered to cause a building, structure or thing to be pulled down, demolished or otherwise removed if he or she deems it necessary to prevent the spread of fire to other buildings, structures or things.
- (3) The fire chief or any other member in charge at an incident is empowered to enter premises or property where the incident occurs and to cause any member, apparatus or equipment of the fire department to enter, as he or she deems necessary, in order to combat, control or deal with the incident.
- (4) The fire chief or any other member in charge at an incident is empowered to enter or pass through or over buildings or property proximal 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 buildings or property, where he or she deems it necessary to gain access to the incident or to protect any person or property.
- (5) In the event of a fire or other incident, the fire chief or any other member in charge may evacuate any building, premises or property that is threatened by fire, explosion or any condition that may expose occupants to danger.
- (6) The fire chief, or any other member in charge at an incident, may, at his or her discretion, establish boundaries or limits and keep all persons from entering the area within the prescribed boundaries or limits unless authorized to enter by him or her.
- (7) The fire chief or any other member in charge at an incident may request peace officers to enforce restrictions on persons entering within the boundaries or limits established under the authority of section 12(6).
- (8) The fire chief or any other member in charge of a fire or other incident may request persons who are not members to assist in removing furniture, goods and merchandise from any building on fire or in danger thereof and in guarding and securing it and in demolishing a building or structure at or near the fire or other incident.
- (9) The fire chief or any other member in charge of an incident is empowered to commandeer privately-owned equipment which he or she considers necessary to deal with the incident.

- (10) Any person called upon to assist as provided in this bylaw will, for the time he or she does so assist, be deemed to be a volunteer of the regional district.

Prohibitions

13. (1) A person at an incident must not enter the boundaries or limits of an area established under the authority of section 12(6) unless authorized to do so by the fire chief or the member in charge.
- (2) A person at an incident must not impede, obstruct or hinder a member of the fire department or other person in the execution of their duties or while assisting or acting under the direction of the fire chief or the member in charge.
- (3) A person must not damage or destroy fire department apparatus or equipment.
- (4) A person at an incident must not drive a vehicle over any hose or other equipment, unless permitted to do so by the fire chief or the member in charge.
- (5) A person must not obstruct or otherwise interfere with access roads or streets or other approaches to any fire or other incident, or any fire hydrant, cistern, or body of water designated for fire-fighting purposes.
- (6) A person must not obstruct, impede or hinder in any manner whatsoever the fire chief, a member or a peace officer while proceeding to, returning from or while engaged at the scene of a fire or other incident.
- (7) A person must not tamper with, remove, destroy, render inoperative or interfere with any fire protection equipment or part thereof which is provided for the protection of property or persons, whether public or private.
- (8) A person must not refuse to obey the direction or command of the fire chief, a member or a peace officer at or near the scene of any fire or other incident that is authorized by this bylaw or the *Fire Services Act* of British Columbia.
- (9) Except as authorized by the fire chief or other member, a person must not:
 - (a) enter any building threatened by an incident;
 - (b) enter within any area, across or around any or all streets, lanes, alleys or buildings that are designated by ropes, guards, tapes or other means erected by or under the direction of a peace officer or member in charge.
 - (c) Refuse to move from an area designated in section 13(9)(b) when directed to do so by a peace officer or member.
- (10) Every person at or near an incident must obey all traffic control directions given by a peace officer, the fire chief or any member of the fire department.

Fire damaged buildings

14. (1) The owner of a fire-damaged building must promptly take all necessary steps to secure the building against the entry or unauthorized persons, including, but not limited to, guarding the building and securing all openings into the building.
- (2) If an owner fails to provide the necessary security to a fire-damaged building within a reasonable time or when directed to do so by the fire chief, the regional district may enter on the property and cause the necessary work to be carried out by its employees, agents or contractors, at the cost of the owner.

FIRE PREVENTION REGULATIONS

Forest fire hazard

15. (1) The fire chief may, for the purpose of preventing forest fires within the regional district:
 - (a) order the temporary closure to public use of outdoor trails, camping areas, and other facilities located in or near forested areas, whether on regional district land, Crown land or private land;
 - (b) order the notification of the public regarding the closures referred to in section 15(1)(a), including without limitation, the erection of signs and the publication and broadcasting of notices;
 - (c) order that a person not light, ignite, start or maintain, or allow or cause to be lighted, ignited, started or maintained a campfire;
 - (d) order that the procedures, activities or work program of any business, contractor, facility or their operations within one kilometer of a forest be stopped or modified;
 - (e) order one or more High Risk Activities to be prohibited for a specified period of time
 - (f) modify and rescind any order under this section; and
 - (g) exempt, in writing, any person or group of persons from an order issued under this section where in the opinion of the fire chief, such exemption is unlikely to cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire.
- (2) An order under section 15(1) does not prevent any persons from travelling to and from or occupying his or her residence or using a highway, as defined in the *Highway Act*.
- (3) A person must not tamper with or remove any sign or notice placed pursuant to section 15(1).
- (4) It is an offence under this bylaw to violate any order issued pursuant to section 15(1).

Requirement for a permit

16. (1) A person may apply to the fire chief for a permit to carry out open burning and the fire chief is authorized to issue the permit where he or she considers that:
 - (a) the open burning does not create an unreasonable risk to the land or premises or surrounding lands;
 - (b) because of the location of the land on which the burning is to occur, the open burning will not unreasonably impair air quality of the surrounding lands.
- (2) In issuing a permit under 16(1), the fire chief may impose one or more of the following conditions
 - (a) limit the duration of the burning;
 - (b) limit the size of the burning;
 - (c) limit the amount or type of material that may be burned; and
 - (d) precautions to be observed during burning.
- (3) The fire chief may withhold any permit or cancel any permit when in his opinion the igniting of a fire may create a hazard to persons or property.
- (4) No person shall burn any garbage, animal waste, rubber, tires, oil, tar, asphalt shingles, battery boxes, plastic material, or any other materials which produce heavy black smoke or create a noxious odour.
- (5) Permits are required at all times for campfires.
- (6) Open burning is only permitted from October 15 to April 30 and requires a permit, unless a notice is published or posted under section 17.
- (7) Permits are required at all times for the burning of debris that results from land clearing activities.
- (8) All fires must be attended by a competent person at least 16 years old who shall supervise any burning and shall ensure that sufficient equipment, functioning hoses, tools and material in order to contain the fire and extinguish it if necessary, are available.
- (9) A person who is issued a permit for burning debris from land clearing activities under section 16(7) shall be charged a cost of \$500.

Cancellation, modification and suspension of permits

17. (1) At any time, the fire chief or an officer may, on account of hazardous fire conditions, cancel or suspend any permit issued under this bylaw, or may impose such further regulations, terms, conditions, restrictions and provisions on the permit as the fire chief or officer deems necessary.
- (2) Despite any other provision of this bylaw, where the fire chief determines or identifies that hazardous fire conditions exist, the fire chief may order a suspension or total ban on open air burning, at any time and for any duration. A person must not light, ignite,

start, maintain or allow or cause to be lighted, ignited, started or maintained any fire in contravention of the fire chief's order under this section.

- (3) A permit holder who fails to comply with the conditions of a permit must, upon direction of the fire chief or person acting under the authority of the fire chief, immediately extinguish any and all fires. If the permit holder fails to extinguish the fire(s) as directed, the fire chief or person acting under this or her authority may cause the fire(s) to be extinguished.

Burning restrictions

18. (1) A person must not light, ignite, start, maintain or allow or cause to be lighted, ignited, started or maintained a campfire, or permit smoke to emanate from a campfire, unless:
 - (a) the only materials burned in the campfire are dry, seasoned wood;
 - (b) the campfire is continuously controlled and supervised by a competent person equipped with extinguishing equipment and materials; and
 - (c) the smoke from the campfire does not create a nuisance.
- (2) A permit holder must not burn prohibited material as defined under the British Columbia Ministry of Environment "Open Burning Smoke Control Regulations" under the *Environmental Management Act*.
- (3) Every permit holder must ensure that a permitted fire that is smouldering or burning is under the immediate care and control of a competent person who has been provided with sufficient equipment to prevent the fire from burning out of control, causing damage or becoming dangerous to life and property.

Accumulation of combustible material

19. (1) An owner or occupier of premises must not cause or permit wastepaper, hay, grass, straw, litter or other highly combustible material, waste or rubbish to accumulate on a roof or in a yard, vacant lot, carport, garage or open space, which in the opinion of the member in charge constitutes a fire hazard.
- (2) Every owner or occupier of premises must ensure that any accumulation of brush, vines, trees, branches or other highly combustible material deposited on the property from land clearing activities is removed from the property as soon as reasonably possible or, where the fire chief issues an order for its removal, within the time period specified in such order.
- (3) Every owner of a vacant building must at all times ensure that the building is free from debris and highly combustible materials or flammable substances, and must keep all openings to the building securely closed and fastened to prevent entry of unauthorized people.
- (4) If an owner fails to secure a vacant building within a reasonable time or on notice by the fire chief, then, in addition to any other penalty imposed under this bylaw, the fire chief may enter on the property and cause the necessary work to be conducted by employees, agents or contractors of the regional district, at the owner's cost.

Authorization to enter

20. The fire chief is authorized to enter at all reasonable times upon any property in order to ascertain whether the requirements of this bylaw, the *Fire Services Act* or the fire code are being complied with and, in addition to the powers vested by the *Fire Services Act*, the fire chief is authorized and empowered to inspect premises for conditions which may cause fire or increase the danger of fire or the danger to persons and to deal with any matter in a manner inconsistent to any provision of the *Fire Services Act* or its regulations.

FEES AND CHARGES

Cost recovery fees and charges for extraordinary fires and scene security costs

21. (1) The owner of property on which an extraordinary fire occurs or on which scene security costs are incurred shall be liable for a charge for extraordinary fire costs and/or scene security costs in accordance with the rates set out in schedule A, as amended or replaced from time to time.
- (2) The regional district may recover all costs and expenses it incurred incidentally to the taking of any measures pursuant to an extraordinary fire or section 14 jointly and severally from any person who at the time had the charge, management or control of the building or property that is the subject of the charge, which costs and expenses are set out in Schedule "A" attached to and forming part of this bylaw. If that person fails to pay those costs and expenses within 6 months after they were incurred, the regional district may recover those costs and expenses from the owner of the building or property by direct invoice, together with costs and interest at a rate set out in the *Taxation (Rural Area) Act*. Default on those costs, expenses and interest will result in their being added to the property taxes of the owner of the building or property.

ENFORCEMENT AND PENALTIES

Penalties

22. Every person who:
- (a) contravenes or violates any provision of this bylaw or any permit or order issued under this bylaw;
 - (b) causes, suffers or permits any act or thing to be done in contravention or in violation of any provision of this bylaw or any permit or order issued under this bylaw; or
 - (c) neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw or any permit or order issued under this bylaw;
- commits an offence and shall be liable, on summary conviction, to a fine not exceeding \$2,000.00 and, where the offence is a continuing one, each day that the offence continues must be considered a separate offence.

SCHEDULE A

Extraordinary Fire Charge and Scene Security Costs

1. The charge for the cost of fighting an extraordinary fire shall be calculated on the basis of the following:

Hourly cost of each fire crew and fire truck (1 hour minimum)	Costs are in accordance with the provincially established rental rates for fire apparatus and personnel identified in the Inter-Agency Working Group report as revised from time to time.
Scene security costs	Actual cost
Hourly cost of specialized machinery • (includes heavy machinery required in combating the fire)	Actual cost
Fire retardant gel/per unit cost	Actual cost
Fire retardant foam/per unit cost	Actual cost
Mutual aid costs	Actual cost

2. Despite section 1, if the costs of extraordinary fire suppression as actually incurred by the regional district are less than the amounts calculated under section 1, the extraordinary fire charge shall be the lesser amount.