

DATE: March 29, 2018

FILE: 7200-20/BCOB

TO: Chair and Members
Black Creek/Oyster Bay Committee

Supported by Russell Dyson
Chief Administrative Officer

FROM: Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Restriction of High Risk Activities During Extreme Fire Danger

Purpose

The purpose of this report is to recommend an amendment to relevant bylaws to enable the Fire Chief to restrict high risk activities within the fire protection local service areas during prolonged extreme fire danger ratings.

Recommendation from the Chief Administrative Officer:

THAT Bylaw No. 279 being a “Black Creek – Oyster Bay Fire Protection Service Regulations Bylaw No. 279, 2014” be amended to provide for the regulation of high risk activities.

AND FURTHER THAT Bylaw No. 104 being “Municipal Ticket Information Bylaw No. 104, 2010” be amended to establish fines for the regulation of high-risk activities as outlined in the staff report dated March 29, 2018.

Executive Summary

Recent weather patterns seem to be trending to longer and drier summers with more days in the high to extreme fire danger rating. Currently the fire department has the authority to restrict the lighting of fires during these times which helps reduce the opportunity for a fire starting that may threaten our community. The fire department however does not have any authority to restrict other high-risk activities that could lead to a fire starting and becoming a wildfire. The purpose of this amendment is to give the fire department the authority to restrict high risk activities that could lead to a wildfire.

Staff are proposing that the service regulations bylaw be amended to provide for the regulation of high-risk activities and that a fine amount of \$500 be established for contravention of such regulations.

Prepared by:

B. Green

Bruce Green
Fire Chief ORFR

Concurrence:

J. Bast

James Bast
Manager of Fire Services

Concurrence:

T. Ian Smith

T. Ian Smith, MCE
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Stakeholder Distribution (Upon Agenda Publication)

Oyster River Fire Department	
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Background/Current Situation

Through the *BC Wildfire Act* the provincial government has the authority to restrict activities that may cause or contribute to the spread of a wildfire. As Black Creek/Oyster Bay Fire Protection Area has a bylaw that regulates the lighting of fires, but doesn't speak to high risk activities, the provincial rules do not apply in our area therefore the Fire Chief is unable to follow suit when the Ministry of Forest Lands and Natural Resources (MFLNR) restricts high risk activities.

As seen during last year's wildfire season MLNFR firefighting resources were stretched to help battle all the fires that were burning within BC. Although we were fortunate enough to have no wildfires in the Black Creek/Oyster Bay Fire Protection Area, if we did the help we receive from the MFLNR to fight wildfire could have been reduced and delayed. As was also seen last summer there were several area restrictions put in place by the MFLNR to help prevent more fires starting. By updating the bylaws, it will give the fire department the opportunity to follow the MFLNR lead and put restrictions in place to help prevent the accidental start of a wildfire. A draft amended bylaw is attached as Appendix A. Of note in 2017 there was a 2-hectare fire in Comox, during the Provincial State of Emergency that threatened houses and required a response from multiple valley fire departments as well as MFLNR.

Policy Analysis

Section 332(1) of the *Local Government Act (RSBC, 2015, c. 1) (LGA)* provides that a regional district may operate any service the board considers necessary or desirable for all or part of the regional district. Section 335(2) of the LGA provides that the board may, by bylaw, regulate and prohibit in relation to a regional district service. In addition, Section 303 of the LGA provides the board with specific fire protection powers and authorizes the board to enact certain regulations, by bylaw, subject to the *Fire Services Act, RSBC Ch. 744 1996*.

The Comox Valley Regional District (CVRD) delivers fire protection services in each of the electoral areas, or portions thereof. Service establishment bylaws and fire service regulations bylaws define the various services and the responsibilities and obligations.

Options

Option 1

Direct staff to amend the noted fire regulation bylaws to regulate high risk activities.

Option 2

Direct staff do more research and report back to the board.

This staff report provides information in support of option 1.

Financial Factors

Funds are available within the proposed 2018 budgets of the fire protection services, to advertise and inform residents of the bylaw amendments and the improvement to fire safety.

Legal Factors

The *LGA* provides that the board may, by bylaw, authorize a Fire Chief or designate, to take necessary measures, as described in the bylaw, to prevent and suppress fires in a manner not contrary to the *Fire Services Act*.

The proposed fire prevention measures are in compliance with the *Fire Services Act, BC Wildfire Act* and *Wildfire Regulations* and CVRD bylaws.

The current CVRD Municipal Ticket Information (MTI) Bylaw identifies ticketable offenses for burning during a posted ban, failing to extinguish a beach or camp fire and other related offences. Should the recommendation in this report be approved, an amendment to the MTI bylaw will be presented to board that provides for a \$500 fine for contravention of the high-risk activity regulations.

Regional Growth Strategy Implications

Objective 7C of the Regional Growth Strategy (RGS) is to improve regional fire safety. This report falls under that objective.

Intergovernmental Factors

The Cumberland fire department currently has a bylaw that gives the fire chief the ability to restrict high risk activities, none of the other local fire departments have any such bylaw. The Courtenay, Comox, Fanny Bay, Denman Island and Hornby Island Fire Chiefs have been consulted and they all support the amending of the bylaws.

Oyster River Fire Rescue has had two fires started in their area in the last five years from off road vehicles exhaust systems igniting dry grass or ground cover.

Interdepartmental Involvement

The Community Services Branch and the Corporate Legislative Officer have collaborated to develop this report and its recommendation.

Citizen/Public Relations

With endorsement of the recommendation, the CVRD will place advertisements in local newspapers as well as update the CVRD website to inform residents of the bylaw amendments and the improvement to fire safety.

Attachments: Appendix A – “Draft amended fire service regulatory bylaw.”

COMOX VALLEY REGIONAL DISTRICT**BYLAW NO. 279****A bylaw for regulating the lighting of fires
in the Black Creek – Oyster Bay fire protection service**

WHEREAS the board adopted bylaw No. 1964 being “Black Creek/Oyster Bay Fire Protection Local Service Conversion/Establishment Bylaw No. 1964, 1997” on the 27th day of April, 1998 to establish a service for the purpose of providing fire protection to the communities of Black Creek and Oyster Bay;

AND WHEREAS the regional district board may, by bylaw, regulate the activities under the service, including establishing regulations for the lighting of fires in the Black Creek – Oyster Bay fire protection service area;

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

Definitions

1. In this bylaw, the following terms shall have the following respective meanings:
 - (a) “domestic incinerator” means any metal or masonry container used for the burning of material and servicing any dwelling unit;
 - (b) “domestic waste material” means any readily combustible dry waste material produced on residential property;
 - (c) “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
 - (d) “extraordinary fire costs” means costs, over and above those costs associated with a fire that is not an extraordinary fire
 - (e) “fire chief” means the fire chief of the Oyster River Volunteer Fire Rescue or his designate;
 - (f) “foreshore” means that part of the shore between high and low water marks or between the water and cultivated or developed land;
 - ~~(g) “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 de-limbing;
 - iii. welding;
 - iv. portable wood chipping, milling, processing or manufacturing;~~

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- 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.

- (h) "noxious material" means any material which, burned, produces harmful and polluting exhaust fumes into the air and/or leaves residues which are harmful and polluting, including but not limited to gasoline, oil, kerosene, tar, asphalt, plastic, tires, garbage, animal organic waste, rubber, tires, asphalt shingles, battery boxes, plastic material, polypropylene, polystyrene, electric wires, plastic pipe, adhesives, hydro carbons or any similar material which may be toxic and which may or may not produce heavy black smoke or create a noxious odor;
- (i) "outdoor fire" and "open burning" means a fire in the open air where the products of combustion are not conveyed and disposed of by means of a chimney constructed and maintained in accordance with the BC Building Code and the B.C. Fire Code and includes beach fires and campfires;
- (j) "permit" means the current written document used by the Oyster River Volunteer Fire Rescue as the permit document approved and used under the authority of the fire chief; and
- (k) "service area" means those portions of Comox Valley Regional District Electoral Area 'C' (Puntledge – Black Creek) and Strathcona Regional District Electoral Area 'D' (Oyster Bay – Buttle Lake) that form the Black Creek – Oyster Bay fire protection service.

Interpretation

2. Unless otherwise defined, all words and phrases in this bylaw must be construed in accordance with the meanings assigned to them by the current B.C. Building Code, the *Fire Services Act* or the B.C. Fire Code, as the context and circumstances may require.

Adoption of fire code

3. The B.C. 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

4. 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

5. In the event of a conflict, discrepancy, variation or inconsistency between this bylaw and the *Fire Services Act*, the B.C. Fire Code or the B.C. Building Code, as the case may be, prevail over the provisions of this bylaw to the extent of any conflict, discrepancy, variation or inconsistency.

Requirement for a permit

6. (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:
 - (i) the open burning does not create an unreasonable risk to the land or premises or surrounding lands;
 - (ii) because of the location of the land on which the burning is to occur, weather conditions and the amount and type of material to be burned, the open burning will not unreasonably impair air quality of the surrounding lands.

- (2) In issuing a permit under section 6(a), the fire chief may impose one or more of the following conditions
 - (i) limit the duration of the burning;
 - (ii) limit the size of the burning; and
 - (iii) limit the amount or type of material that may be burned.
- (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 odor.
- (5) A permit is not required for the burning of domestic waste material between sunrise and sunset provided it is burnt in a domestic incinerator fitted with a metal screen or grill with a mesh of less than 9.5mm (3/8") to restrict sparks or flying debris.
- (6) No person is required to obtain a permit for the occasional burning of domestic waste material from sunrise to sunset on any day from November 1st to April 1st unless a notice is published or posted under section 3.
- (7) Permits are required at all times for the burning of debris that results from the cutting and felling of trees and from land clearing activities.
- (8) All outdoor 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 materials in order to contain the fire and extinguish it if necessary.
- (9) All outdoor fires shall be located at least three metres from any combustible material.
- (10) All outdoor fires shall be extinguished by 11:00 p.m.
- (11) A permit is not required for outdoor fires under 75 cm in diameter.

Burning prohibition

7. (1) Where the fire chief considers that due to a lack of precipitation, open burning creates an unreasonable risk of fire hazard within the service area, he or she may prohibit the burning of domestic waste material and of debris that results from the cutting and felling of trees or from land clearing activities it is prohibited.
- (2) No person shall light, ignite or maintain any fire in the open air or in an incinerator after a notice of the prohibition under subsection (a) has been published at least once in a newspaper circulating in the service area and posted in at least one location within the service area.

High-Risk Activities

- ~~8.~~ (1) ~~If at any time the Fire Chief deems it advisable, the Fire Chief may order one or more High Risk Activities to be prohibited for a specified period of time.~~

General

- ~~8-9.~~ (1) Neither the issuance of a permit under this bylaw, nor the inclusion of any conditions from the permit shall be interpreted or relied upon as a representation or warranty by the regional district, the fire chief or any other person that the lighting, igniting or maintaining of a fire will not cause loss or damage.
- (2) No person shall obstruct or prevent the fire chief from carrying out inspections or enforcing the regulations of this bylaw.

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

- ~~9.10.~~ (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 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.

Penalties

~~40-11.~~ 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.

Severability

~~44-12.~~ 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

~~42-13.~~ 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.

Repeal

~~43-14.~~ Bylaw No. 2439 being "Black Creek/Oyster Bay Fire Protection Service Area Fire Control Bylaw No. 2439, 2002" and all amendments made to the bylaw are repealed upon the adoption of this bylaw.

Citation

This Bylaw No. 279 may be cited for all purposes as "Black Creek – Oyster Bay Fire Protection Service Regulations Bylaw No. 279, 2014".

Read a first and second time this	24th	day of	June	2014.
Read a third time this	24th	day of	June	2014.
Adopted by two-thirds of the votes cast this	24th	day of	June	2014.

E. Grieve

J. Warren

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 279 being "Black Creek – Oyster Bay Fire Protection Service Regulations Bylaw No. 279, 2014" as adopted by the board of the Comox Valley Regional District on the day of 2014.

J. Warren

Corporate Legislative Officer

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 (one 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.