

THE CORPORATION OF THE DISTRICT OF OAK BAY

BYLAW NO. 3803

(*Amended by Bylaws No. 3927, 3956, 3993, 4301, 4331 and 4399)

A Bylaw to deal with the suppression and prevention
of fires in the Municipality of Oak Bay

The Municipal Council of The Corporation of the District of Oak Bay, in open meeting assembled, enacts as follows:

1. In this Bylaw, except where the context otherwise requires,

"ALARM SYSTEM" means any mechanical, electrical or electronic device which is designed to emit sound or transmit an electrical or electronic signal in the event of a fire.

"ANIMAL ORGANIC WASTE" means solid organic waste material of animal origin and includes flesh, carcasses, offal, hides, hair 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;

"BRITISH COLUMBIA FIRE CODE REGULATIONS" means regulations enacted pursuant to the *Fire Services Act*, R.S.B.C. 1979, c.133;

"CORPORATION" means The Corporation of the District of Oak Bay;

"COUNCIL" means the Municipal Council of the Corporation;

"DANGEROUS GOODS" means any product, substance or organism which is of highly combustible and flammable, or explosive nature, as set out in the British Columbia Fire Code Regulations and the National Fire Codes, and any other material which, because of its 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 are classified as follows:

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

- Class 2 Gases, including compressed gases, liquefied petroleum, liquefied natural gas, liquefied or dissolved gases under pressure.
- Class 3 Flammable and combustible liquids as defined in the *Fire Services Act* or any regulation enacted pursuant to that Act.
- Class 4 Flammable solids; substances liable to spontaneous combustion and substances that on contact with water emit flammable gasses.
- Class 5 Oxidizing substances including organic peroxides, chlorates and nitrates.
- Class 6 Poisonous (toxic) and infectious substances.
- Class 7 Radioactive materials and prescribed substances within the meaning of the *Atomic Energy Control Act (Canada)*.
- Class 8 Corrosives.
- Class 9 Miscellaneous dangerous goods, substances or organisms not included in any of the above classes.

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

"EXTINGUISHED" means left with no flame, sparks, glowing embers or smoke;

"FIRE" means any fuel in a state of active combustion.

(**Bylaw 4399, adopted January 28, 2008)

"FIRE CHIEF" means the person appointed by Council as head of the Fire Department, and includes a member authorized by him to act on his behalf;

"FIRE DEPARTMENT" means the Fire Department of the Corporation, and includes, where applicable, the fire department of another municipality attending an incident within the Municipality pursuant to the terms of a mutual aid agreement;

"FIRE HAZARD" means any condition conducive to the destruction of life, or the destruction of or damage to property, by fire, or which is likely to increase the extent or severity of fire;

"GARBAGE" means animal, vegetable and other food wastes resulting from the handling, preparation, storage, cooking or serving of food, and includes material used in the packaging of food, but does not include paper uncontaminated by food.

"INCIDENT" means a fire, liquid or gaseous chemical leak, explosion, medical emergency, land or water rescue operation, a request for assistance from any other emergency service organization, whether operating in or outside the Municipality, dangerous goods emergencies, requests for public service, or any other situation where a hazard to persons or property exists, is imminent, or is deemed by the Fire Chief to exist or to be imminent;

"MEMBER" means a person employed by the Corporation in the classification of Fire Fighter, Lieutenant, Captain, Assistant Fire Chief, Deputy Fire Chief or Fire Chief;

"MUNICIPALITY" means the District Municipality of Oak Bay;

"MUNICIPAL ADMINISTRATOR" means the Municipal Administrator for the Corporation;

"NATIONAL FIRE CODES" means the compilation of Codes, Standards, Recommended Practices and Guides published by the National Fire Protection Association.

"OCCUPIER" includes tenant, lessee, agent and any other person who has the right of access to and control of a building or premises;

"PARK" means land owned by the Corporation and dedicated for park purposes by bylaw, subdivision plan, reference plan or explanatory plan.

*(**Bylaw 4399, adopted January 28, 2008)*

"PERSON" includes a corporation, partnership or proprietorship;

"PROHIBITED MATERIALS" includes tires, plastics, drywall, demolition waste, garbage, construction waste, paint and paint products, chemically treated lumber, asphalt, asphalt products, rubber, fuel and lubricant containers, biomedical waste, tar paper, railway ties, manure, animal organic waste, grass cuttings, aromatic hydrocarbons, or any other material which, when burned, creates a noxious odour;

"TREASURER-COLLECTOR" means the Municipal Treasurer-Collector for the Corporation.

2. In this Bylaw, wherever the singular or masculine is used it shall be construed as if the plural or the feminine or neuter, as the case may be, had been used where the context so requires, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.

3. The Fire Department of The Corporation of the District of Oak Bay, established with the appointment of Edward G. Clayards as Fire Chief on February 1, 1938, is hereby continued.
4. Subject to the direction and control of Council to which, through the Municipal Administrator, he shall be responsible, the Fire Chief shall have complete responsibility for and control over the Fire Department.
5. The Fire Chief or, in his absence, the senior ranking member present shall have control, direction and management of all Fire Department apparatus, equipment and manpower assigned to an incident, and where a member other than the Fire Chief is in charge he shall continue to act until relieved by a senior officer.
6. The Fire Chief shall be responsible for all fire protection matters, including the enforcement of the Fire Services Act and regulations thereunder, and shall assume the responsibilities of the Local Assistant to the Fire Commissioner.
7. The Fire Chief, or any member under the direction of the Fire Chief, is authorized to:
 - (1) take all proper measures to prevent, control and extinguish fires;
 - (2) provide assistance in response to an incident.
8. The Fire Chief may enter upon any land, or any building or structure situate thereon,
 - (1) to conduct a fire prevention inspection;
 - (2) to determine whether this Bylaw is being complied with;
 - (3) to serve or post notices pursuant to this Bylaw; or
 - (4) to enforce any provision of this Bylaw.
9. The Fire Chief may enter upon any land, or any building or structure on land, where he has reasonable cause to believe that there are dangerous goods stored therein, and may take such actions as he deems necessary to ensure that the same is suitably safeguarded against fire or explosion including, but not limited to, erecting of barricades and the posting of "No Admittance" signs, which every person shall obey.
10. No person shall obstruct, hinder or impede the Fire Chief in making any entry authorized by this Bylaw.
11. Where, in his opinion, the fire hazard so warrants the Fire Chief may post signs marked "Fire Closure: No Entry", or words importing the same, at points of public

access to lands zoned, used or dedicated for park or other public purposes, and no person shall be upon such lands while any such sign is in place.

12. No person shall remove, deface or alter any sign or notice posted by order of the Fire Chief under this Bylaw.
13. The Fire Chief or other member in charge at a fire may cause a building, structure or thing to be pulled down, demolished or otherwise removed if he deems such action necessary to prevent the spread of fire to other buildings, structures, or things, or to facilitate the extinguishment of fire.
14. The Fire Chief or other member in charge at an incident may enter upon any land, or any building or structure on land, where the incident occurred and may cause any member, apparatus or equipment of the Fire Department to enter upon same in order to combat, control or deal with the incident.
15. The Fire Chief or other member in charge at an incident may enter, pass through or over land, buildings or structures adjacent to an incident and may cause any member, apparatus or equipment of the Fire Department to enter, pass through or over same in order to gain access to the incident or to protect any person or property.
16. The Fire Chief or other member in charge at an incident may establish and mark boundaries or limits and keep persons from entering the area within the said boundaries or limits unless authorized to enter by him.
17. No person shall enter the area established pursuant to Section 16 unless authorized to enter by the Fire Chief or other member in charge at the incident.
18. No person shall in any way obstruct, hinder or impede a member of the Fire Department, or any other person under the direction of the Fire Chief, at an incident.
19. No person shall willfully destroy Fire Department apparatus or equipment.
20. No person at or near an incident shall drive a vehicle over any equipment without the permission of the Fire Chief or other member in charge.
21. No person shall falsely represent themselves as a member of the Fire Department.
22. No person shall place or maintain any object, thing, material or plant on a sidewalk, boulevard or street which interferes with free access or approach to any fire hydrant.
23. (1) Where, in his opinion, smoking may create a fire or explosion hazard, the Fire Chief may order that smoking be prohibited in any building, theatre, dance hall, public hall, assembly hall, school auditorium, skating rink, arena,

place of amusement, recreation or sport, or in any structure or space where combustible materials are handled, stored, manufactured or sold, and every person shall comply with such an order.

- (2) To give effect to an order under subsection (1), the Fire Chief may require the owner or occupier to post suitable signs stating that smoking is prohibited in or on the premises, and the owner or occupier shall prohibit smoking on such premises. For the purpose of this Section, "smoking" shall include the carrying of a lighted pipe, cigar or cigarette.
24. No owner or occupier of any building or structure shall allow or suffer any chimney, stovepipe or flue therein to remain in a condition which may create a fire hazard.
25. No owner or occupier or person in charge or responsible for the care of any building or structure shall allow any chimney, stovepipe or flue therein to become so dirty that it may take fire.
26. Every owner or occupier of any building or structure shall keep all openings in any chimney therein, while such openings are not in use, closed by a proper stopper of metal or other non-combustible material.
27.
 - (1) The Fire Chief may inspect any chimney, flue, fireplace, hearth, oven, furnace, boiler, stove, steampipe, funnel or other like structure or thing.
 - (2) Where, after conducting an inspection pursuant to subsection (1), the Fire Chief finds any chimney, flue, fireplace, hearth, oven, furnace, boiler, stove, steampipe, funnel or other like structure or thing to be a fire hazard, he shall so notify the owner of the premises on which it is situate, and indicate the remedy required and the time within which the condition shall be remedied.
 - (3) Where any person has received a notice under subsection (2), he shall carry out the work required by the same within the time indicated.
28. No person shall deposit any ashes or allow any ashes to be deposited or remain
 - (1) in any combustible container;
 - (2) on the floor of any building owned or occupied by him; or
 - (3) in any metallic container which is within 30 centimetres of any woodwork or other combustible material.
29. No person shall deposit or allow or cause to be deposited any paper, straw, hay, shavings, dangerous goods, or other combustible or flammable material or thing in or among any ashes or other materials or things taken from a fire.

30. In that part of any building where there is an accumulation of hay, straw, shavings or other readily combustible material, or flammable liquids, no person shall smoke or have in his possession any lighted pipe, cigar or cigarette, or light or carry any flame or mantle not enclosed in a shade or other non-combustible guard.
31. No person shall keep any waste, rags, paper or other substance liable by spontaneous combustion to cause fire, except in a container made of metal or other non-combustible material, having an airtight top or lid of the same type of material.
32. No person shall deposit or allow to collect or be deposited any paper, rubbish or other combustible material likely to cause or promote fires dangerous to buildings or other property.
33. No owner or occupier of any building shall allow any paper, wood, debris or other rubbish or material to accumulate on the roof of the building.
34. Any person who produces, uses or has charge of shavings, paper bags, litter or any other readily combustible material shall, at the close of each day, ensure that the same is stored or disposed of in such a manner as to be safe from fire.
35. Any person being the owner of an unoccupied building shall ensure that it is properly secured against entry by unauthorized persons.
36. Where, in the opinion of the Fire Chief, a fire hazard exists on real property, or where any unoccupied building is not properly secured, the Fire Chief shall so notify the owner or occupier thereof, indicating the nature of the condition to be remedied, the manner in which the condition is to be remedied, and the time within which the condition must be remedied.
37. Where any person has received a notice under section 36, he shall carry out the work required by the same within the time indicated.
38. A notice given by the Fire Chief under this Bylaw may be served
 - (1) personally upon the person to whom it is addressed;
 - (2) by leaving it with a person apparently over the age of 16 years at the dwelling or place of business of the person to whom it is addressed;
 - (3) by sending it by registered mail to the most recent address of the person to whom it is addressed as shown on the most recent assessment roll of the Corporation; or
 - (4) where the subject of the notice is an unoccupied building or structure, by posting it in a conspicuous place on the outside of the building or structure.

39. Where the notice is served by registered mail, service shall be deemed to have been effected five days after the date of mailing.
40. Where more than one person is shown on the assessment roll of the Corporation as the owner of real property, service of a notice on any one of such persons shall be deemed to be good and sufficient notice for the purposes of this Bylaw.
41. Where, after the time stated in any notice served pursuant to this Bylaw, the Fire Chief finds that the requirements of the notice have not been carried out, he or any person or persons directed by him may enter upon the real property, or building or structure situate thereon, described in the notice and carry out the work required by the notice at the expense of the owner of such real property.
42. The Fire Chief shall keep an accurate account of the charges incurred by the Corporation pursuant to Section 41, and when the work is completed shall mail a statement of such charges to the person upon whom the notice was served, with a demand for payment of same.
43. If the charges set out in any statement mailed pursuant to Section 42 have not been paid by the 31st day of December in the year in which they were incurred, the Fire Chief shall deliver a copy of the statement, verified by a declaration that such charges were duly incurred pursuant to this Bylaw, to the Treasurer-Collector who, upon receipt of such statement and declaration, shall add the amount of the charges to the property tax roll in respect of the real property in question, and such charges shall then be added to and form part of the taxes payable in respect of such real property as taxes in arrears.
44. No person shall burn, either indoors or outdoors, any prohibited materials.
45. Subject to Sections 46 through 46.2 inclusive, no person shall light, ignite or maintain any fire, or permit or cause any fire to be lit, ignited or maintained in the open air or otherwise outside of a building.

(**Bylaw 3927, adopted April 28, 1997)
(**Bylaw 3993, adopted August 17, 1998)
(**Bylaw 4399, adopted January 28, 2008)
46. Notwithstanding Section 45 of this Bylaw, along with Section 20 of the *Parks and Beaches Bylaw, 1996*, a fire may be ignited and maintained in the open air or in a container, either:
 - (1) in connection with a not-for-profit community event which Council has determined to be for the benefit of the Municipality at large, provided that:
 - (a) the permission of Council has been applied for and obtained in advance;

- (b) in the assessment of Council the fire would create no nuisance or hazard to persons or property;
- (c) a plan for the management, containment, size and location of the fire has been submitted to and approved by the Fire Chief as to the safety of persons and property; and
(**Bylaw 4331, October 10, 2006)
- (d) in the case of an event not directly under the auspices and control of the Corporation, with the fire proposed to be located on a beach or property owned or occupied by the Corporation, the person to whom permission is granted has executed an agreement:
 - (i) indemnifying the Corporation against third party claims arising out of the event;
 - (ii) releasing the Corporation from claims by the permittee arising out of the event;
 - (iii) providing evidence of public liability insurance in an amount not less than Three Million Dollars (\$3,000,000.00) per occurrence, with the Corporation named as an additional insured;
 - (iv) agreeing to pay all costs incurred by the Corporation in connection with the event; and
 - (v) agreeing to abide by any other conditions which may reasonably be required by the Corporation in light of the nature of the property and the scale and nature of the event;

or

- (2) where approved by the Fire Chief in connection with a fire suppression training exercise.

(**Bylaw 4301, adopted Jan. 23, 2006)

46.1 For the purpose of Section 45 of this Bylaw and notwithstanding Section 20 of the *Parks and Beaches Bylaw, 1996*, “fire” does not include a fire fuelled solely by natural gas or propane and used as a special effect in a film production where:

- (a) the supply of fuel is controlled by a valve manned at all times during combustion;
- (b) an agreement as outlined in Section 46(1)(d) has with respect to the locations and in the circumstances therein described been executed by the person responsible for the film production, and

- (c) a plan for the management, containment, size and location of the fire has first been submitted to and approved by the Fire Chief as to the safety of persons and property.

46.2 For the purpose of Section 45, “fire” does not include:

- (1) a fire fuelled solely by natural gas or propane, lit, ignited and maintained within a structure on private land, subject to compliance with the *Gas Safety Regulation* under the *Safety Standards Act*;
- (2) a fire fuelled solely by charcoal briquettes, lit, ignited and maintained solely for the cooking of food, on private land and contained within a structure that has been specifically designed for that purpose; and
- (3) a fire fuelled solely by propane, natural gas or charcoal briquettes, lit, ignited and maintained solely for the cooking of food, on private land and contained within a portable appliance or device that has been specifically designed for that purpose;
- (4) a fire fuelled solely by propane, natural gas or charcoal briquettes, lit, ignited and maintained solely for the cooking of food, contained within a portable appliance or device that has been specifically designed for that purpose, in a park where ancillary to and specifically referenced in a permit under the *Parks and Beaches Bylaw, 1996*; or, where such appliance or device is of a size and design intended for table top use and is set up on a picnic table which has been placed in a park by the Corporation, without such a permit but subject nonetheless to compliance with all applicable provisions of the *Parks and Beaches Bylaw, 1996*; and
- (5) the combustion of a petroleum fuel within an internal combustion engine, or the operation of welding equipment or a hand-held torch for the purpose of construction, maintenance or repair work.

46.3 The Fire Chief may order that because of the level of fire hazard within the Municipality or a portion thereof, the exemption from Section 45 created by Section 46.4 shall cease to operate for the geographical area specified in the order from the effective date thereof until the order is rescinded by him in light of the abatement of the fire hazardous condition.

(**Bylaw 4399, adopted January 28, 2008)

46.4 No permit, permission, approval or exemption created or granted by, under or pursuant to this Bylaw shall in any way derogate from the authority of the Fire Chief to order the remedy of a fire hazardous condition, with which every person shall comply.

(**Bylaw 4331, October 10, 2006)

(**Bylaw 4399, adopted January 28, 2008)

47. Each storey above the ground floor of any building in the Municipality used as a school, hotel, apartment building, duplex or boarding house shall be provided by the owner of the building with an adequate fire escape or adequate fire escapes, and the owner shall maintain the same in good repair and condition.
48. 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 devices.
49.
 - (1) Every property owner who maintains an alarm system shall keep the Oak Bay Fire Department informed, by notice in writing, of the names, addresses and telephone numbers of at least three persons who may be contacted in the event the alarm system is activated.
 - (2) The persons whose names are provided pursuant to subsection (1) shall be persons who are:
 - (a) available to receive telephone calls from the Fire Department in the event the alarm system is activated;
 - (b) able to attend at the premises where the alarm has occurred within 60 minutes of being requested to so;
 - (c) capable of affording the Fire Department access to the premises where the alarm system is located; and
 - (d) capable of operating the alarm system.
50. A person who contravenes this Bylaw by doing an act that it forbids, or by omitting to do an act that it requires to be done, commits an offence and is liable, upon summary conviction, to a fine of not less than Fifty Dollars (\$50.00) and not more than Two Thousand Dollars (\$2,000.00), plus costs, and, in the case of a continuing offence, to a further penalty not exceeding Fifty Dollars (\$50.00) for each day during which the offence continues.
51. The following Bylaws are hereby repealed except insofar as they repeal any other Bylaw:

Bylaw No. 3629, "*Fire Regulation Bylaw, 1989*";

Bylaw No. 3663, "*Fire Regulation Bylaw Amendment Bylaw, 1990*";

Bylaw No. 3686, "*Fire Regulation Bylaw Amendment Bylaw, 1991*";

Bylaw No. 3724, "*Fire Regulation Bylaw Amendment Bylaw, 1992*";

PROVIDED that such repeals shall not affect any offence committed, or penalty or punishment incurred, under such repealed Bylaws or any one of them, and any such penalty or punishment may be imposed as if this Bylaw had not been passed.

52. This Bylaw may be cited as the "**Fire Regulation Bylaw, 1994**".

READ a first, second and second time by the Municipal Council on April 25, 1994

ADOPTED and FINALLY PASSED by the Municipal Council on May 24, 1994

Mayor

Municipal Clerk

Sealed with the Seal of The
Corporation of the District of Oak
Bay.