

The Corporation of the District of Oak Bay

BYLAW NO. 4720 Fire Services Operational Bylaw

A bylaw to deal with the continuation and operation of the fire department and to provide for emergency response activities

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

Interpretation and Application

1. In this bylaw:

- (a) **“Apparatus”** means any vehicle, equipment (including communications equipment), machinery, devices or materials used by the Department in connection with fire suppression or responding to or managing an Incident and any vehicle used to transport Members or Department supplies;
- (b) **“Authorized Services”** means those services which the Department is authorized to provide, as set out in section 7 of this bylaw;
- (c) **“Chief Administrative Officer”** means the person appointed by Council as the chief administrative officer of the Corporation;
- (d) **“Council”** means the municipal council of the Corporation;
- (e) **“Community Charter”** means the *Community Charter*, SBC 2003, c. 26, as amended or re-enacted from time to time;
- (f) **“Corporation”** means The Corporation of the District of Oak Bay;
- (g) **“Department”** means the Oak Bay Fire Department;
- (h) **“EMBC”** means the Provincial Emergency Program established under the *Emergency Program Act* (B.C.) as operated by Emergency Management BC, or any successor thereto;
- (i) **“Emergency Health Services Act”** means the *Emergency Health Services Act*, RSBC 1996, c. 182, as amended or re-enacted from time to time;
- (j) **“Emergency Program Act”** means the *Emergency Program Act*, RSBC 1996, c. 111, as amended or re-enacted from time to time;

- (k) **“Fire Chief”** means the person appointed by Council as head of the Fire Department, and includes a Member authorized by the Fire Chief to act on his or her behalf;
- (l) **“Fire Code”** means the British Columbia Fire Code, as established from time to time under the *Fire Safety Act*;
- (m) **“Fire Commissioner”** means the fire commissioner appointed pursuant to the *Fire Safety Act*;
- (n) **“Fire Inspector”** means a Member trained as a fire inspector in accordance with the requirements of the *Fire Safety Act* and regulations made thereunder;
- (o) **“Fire Investigator”** means a Member trained as a fire investigator in accordance with the requirements of the *Fire Safety Act* and regulations made thereunder;
- (p) **“Fire Safety Assessment”** means a fire safety assessment as defined in the *Fire Safety Act*;
- (q) **“Fire Service Area”** means the area contained within the geographical limits of the District of Oak Bay;
- (r) **“Fire Safety Act”** means the *Fire Safety Act*, SBC 2016, c. 19, as amended or re-enacted from time to time;
- (s) **“Incident”** means an event or situation to which the Department has responded or would normally respond, whether alone, or in conjunction with other emergency services, and includes any post-event clean-up, over-haul and investigations;
- (t) **“Incident Commander”** means the Member in charge of an Incident under the incident command system, as set out in the Department’s Operational Guidelines;
- (u) **“Inspection”** means a fire safety inspection as defined in the *Fire Safety Act*;
- (v) **“Local Government Act”** means the *Local Government Act*, SBC 2015, c. 1, as amended or re-enacted from time to time;
- (w) **“Member”** means a person employed by the Corporation in the classification of Firefighter, Lieutenant, Captain, Assistant Fire Chief, Deputy Fire Chief or Fire Chief;
- (x) **“Ministry of Forests”** means the Ministry of Forests, Lands, Natural Resource Operations and Rural Development of the Province of British Columbia, or any successor to that ministry;

- (y) “**Minister**” means the minister responsible for the administration of the *Emergency Program Act*;
 - (z) “**Officer**” means a Member who is appointed as a Lieutenant, Captain, Assistant Fire Chief, Deputy Fire Chief or Fire Chief in the Department in accordance with this bylaw;
 - (aa) “**Operational Guidelines**” means operational guidelines for the Department developed by the Fire Chief in accordance with this bylaw;
 - (bb) “**Playbook**” means the mandatory minimum training standards set under the *Fire Safety Act* by the Fire Commissioner and approved by the Minister of Justice, entitled *British Columbia Fire Service Minimum Training Standards: Structure Firefighters – Competency and Training Playbook*, as same may be amended, revised or replaced from time to time;
 - (cc) “**Public Building**” has the meaning ascribed thereto in the *Fire Safety Act*;
 - (dd) “**Regional District**” means the Capital Regional District;
 - (ee) “**Wildfire Act**” means the *Wildfire Act*, SBC 2004, c. 31, as amended or re-enacted from time to time; and
 - (ff) “**Workers Compensation Act**” means the *Workers Compensation Act*, RSBC 1996, c. 492, as amended or re-enacted from time to time.
2. References in this bylaw to statutes, regulations, bylaws or policies, and to positions, titles or ministries, includes the same as may be amended, supplemented or replaced from time to time.
3. This bylaw does not contemplate or extend in its purpose to any of the following:
- (a) the protection of any person from economic loss;
 - (b) a guarantee or warranty by the Corporation or any of its agents, as to the service level that will be provided by the Department under this bylaw, or any other applicable bylaws, codes, enactments, agreements or standards;
 - (c) providing to any person a warranty with respect to the provision or timeliness, including the response time of the Department to any Incident, of any Authorized Services of the Department, and for greater certainty the inclusion of a service in the list of Authorized Services does not, of itself, mean that the Department provides such service at any given time or will, in relation to any particular Incident, be able to deliver such service.
4. Each Member is a local public officer of the Corporation within the meaning of section 738 of the *Local Government Act*.

5. In relation to the exercise of operational authorities or powers by the Department, any reference in this bylaw to the Fire Chief or Incident Commander includes any Member designated by the Fire Chief or Incident Commander to act in his or her place, as the case may be.

Fire Department Continued

6. The Department, established with the appointment of Edward G. Clayards as Fire Chief on February 1, 1938, is hereby continued, and shall operate under the name "Oak Bay Fire Department".

Fire Department Authorized Services

7. The Department is authorized to provide the following services (the "Authorized Services"):
 - (a) firefighting and fire suppression;
 - (b) emergency health services, as defined in the *Emergency Health Services Act*, but subject to any agreement that may be required with British Columbia Emergency Health Services;
 - (c) ancillary health services, as defined in the *Emergency Health Services Act*;
 - (d) firefighter and fire officer training;
 - (e) fire prevention and pre-fire planning;
 - (f) Inspections as contemplated by the *Fire Safety Act* and Fire Code;
 - (g) enforcement of the *Fire Safety Act* and Fire Code, including Fire Safety Plan reviews;
 - (h) Fire Investigations and fire cause determinations, including arson investigations, as required by the *Fire Safety Act*;
 - (i) vehicle extrication and road rescue services;
 - (j) fire and life safety public education programs;
 - (k) mutual or automatic aid with other fire services, subject to written agreements with those services;
 - (l) assistance to the Ministry of Forests in relation to wildfires, in accordance with the *Wildfire Act* and any operational guidelines issued by the Ministry of Forest's Wildfire Service;
 - (m) assistance to other emergency services, including the Oak Bay Police Department and the British Columbia Ambulance Service;

- (n) emergency preparedness training;
 - (o) specialized rescue services, including low bank, high angle and water rescue, subject to training and availability of appropriate Apparatus;
 - (p) hazardous materials Incident response;
 - (q) the enforcement of this bylaw and other bylaws of the Corporation related to fire prevention;
 - (r) other life safety responses required in connection with an Incident (including in relation to any natural or human-caused disaster) subject to training and availability of appropriate Apparatus; and
 - (s) such other services as may be authorized by Council.
8. The Fire Chief, in consultation with the Chief Administrative Officer, shall determine which of the Authorized Services the Department may provide, and the level to which such services shall be provided, at any given time, subject to any necessary budget approvals and specific direction of Council; provided, however, that the Department shall always provide fire suppression, fire prevention, Fire Code enforcement, Fire Investigation and Inspection services, and services ancillary thereto, as contemplated by sections 7 and 9 of this bylaw.
9. The Department shall operate as a “full service” department as defined in the Fire Commissioners Playbook both within the Fire Service Area and when responding extra-jurisdictionally as contemplated by section 12 of this bylaw. The Department shall operate in accordance with the requirements of the Playbook, including with respect to the training of its Members and keeping of records related to such training.
10. Notwithstanding the list of Authorized Services or any service level authorized in accordance with the Playbook, in relation to any particular Incident response, the Department shall undertake only those emergency response activities for which its responding Members are properly trained and equipped. The Fire Chief and/or Incident Commander may, in his or her sole discretion, restrict or terminate emergency response activities in any circumstances where the Incident is considered to exceed the training or capabilities of the responding Members, or Apparatus available to them.

Department’s Fire Service Area and Responses Out of its Ordinary Jurisdiction

11. The Department is hereby authorized to provide the Authorized Services within the Fire Service Area.
12. The Department may respond to an Incident and provide the Authorized Services outside of the Fire Service Area in the following circumstances:

- (a) in accordance with the terms of a mutual or automatic aid agreement with another local government, the Regional District, or other person;
 - (b) if authorized to respond by EMBC or in accordance with an agreement with or standard operating procedures established by the Ministry of Forests or any other provincial or federal emergency or regulatory agency;
 - (c) to provide an Incident response in circumstances where, in the view of the Fire Chief or Incident Commander, such Incident imminently threatens any part of the Fire Service Area;
 - (d) in accordance with the terms of a fire service agreement with another local government, a regional district, a First Nations band or other person;
 - (e) if ordered so to do by the Minister, by a local authority exercising the Minister's powers, by the Lieutenant Governor in Council or the Fire Commissioner, under and in accordance with the *Emergency Program Act* and the regulations made thereunder; and
 - (f) if authorized by the Mayor or his or her designate, or, if the Mayor and designate are absent or unavailable, the Chief Administrative Officer.
13. The Fire Chief or his or her designate may, in his or her sole discretion, refuse to respond to calls to Incidents described in subsections 12(a) and (b); provided that any refusal of a mutual aid request or automatic aid response shall be in accordance with the terms of the relevant mutual aid agreement or automatic aid agreement, as the case may be.
14. Where another fire department (a "Responding Department") provides emergency response services within the Fire Service Area under a mutual aid or automatic aid agreement, the Responding Department, in relation to any particular Incident:
- (a) is authorized to exercise the powers and authorities specified in the relevant mutual aid agreement or automatic aid agreement, as the case may be; or
 - (b) where the relevant mutual aid agreement or automatic aid agreement does not expressly address the issue of powers and authority, is entitled to exercise the same powers and authority as the Department under this Bylaw, subject to the direction of the Fire Chief.

Fire Chief

15. The Fire Chief and the Deputy Fire Chief shall each be appointed by Council. Subject to direction of Council, the Fire Chief shall have complete responsibility for and control over the operation and regulation of the Department and delivery of the Authorized Services, including dealing with any matter within the scope of the *Fire Safety Act* and related

regulations. The Fire Chief shall report to Council through the Chief Administrative Officer.

16. Without limiting section 15, the Fire Chief shall be responsible for:

- (a) developing and maintaining a set of Operational Guidelines which meets the operational requirements of the Department and fulfils all statutory and regulatory requirements, including those mandated by the *Workers Compensation Act* and regulations made thereunder. The Operational Guidelines will include, among other things, an appropriate Incident command and accountability system;
- (b) developing all necessary training programs, establishing any necessary proficiency requirements for Members, and implementing an occupational health and safety program for the Department which, in each case, meets all statutory and regulatory requirements, including those required by the Playbook and the *Workers Compensation Act* and regulations made thereunder;
- (c) ensuring that the Department maintains all required records, including those relating to training and occupational health and safety matters;
- (d) preparation and management of the Fire Department Budget as well as the Emergency Program Budget for the District; and
- (e) providing an annual report to Council for the Fire Department and Emergency Program, and such other reports as Council may request from time to time.

17. The Fire Chief is the fire chief of the Corporation for the purposes of the *Fire Safety Act* and for all other purposes, and is entitled within the Fire Service Area to exercise all of the powers of a fire chief as set out in the *Fire Safety Act*.

Officers and Members

18. The Chief Administrative Officer, on the advice of the Fire Chief, shall appoint exempt officers of the Department, who shall be considered “managers” within the meaning of the *Labour Relations Administration Bylaw, 1997*, being Bylaw No. 3953 of the Corporation. The Fire Chief shall appoint non-exempt employees to the other officer positions in the Department, subject to the provisions of any applicable collective agreement. In each case the appointment or promotion of individuals to higher ranks within the Department is subject to financial constraints imposed by the current annual or provisional budget of the Corporation, whichever is applicable, as adopted by the Council.

19. The Members of the Department shall carry out the duties and responsibilities assigned to the Department under this bylaw, and other applicable bylaws of the Corporation, subject to the direction of the Fire Chief.

Department Powers

20. The Fire Chief, and any Member designated by the Fire Chief for such purpose, may enter any buildings, premises, structures or property:
 - (a) for the purpose of conducting a Fire Inspection, reviewing a Fire Safety Assessment, or for the purpose of conducting pre-incident planning; or
 - (b) to ascertain whether the requirements of this bylaw, or any other relevant fire or life safety bylaw of the Corporation, are being complied with.
21. The Fire Chief may make orders which 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 condition or thing that the Fire Chief considers is a fire hazard or increases the danger of fire.
22. Where an order has been made pursuant to section 21 which has not been complied with, the Fire Chief or another person delegated authority by Council, may cause the work to be completed and bill the owner of the property for the cost of the work.
23. In relation to any entry onto property or into premises, other than in relation to an Incident, the entry shall be made subject to and in accordance with, as applicable:
 - (a) the provisions of section 16 of the *Community Charter*;
 - (b) the provisions of the *Fire Safety Act* and the regulations made thereunder.
24. No person shall obstruct, hinder or impede the Fire Chief or any Officer or Member in making any entry authorized by this bylaw.
25. The Fire Chief or Incident Commander, together with Members and Apparatus, may enter at any time any buildings, premises, structures or property in connection with an Incident.
26. The Fire Chief or Incident Commander, together with Members and Apparatus, may at any time enter, remain on, or pass through or over buildings, premises, structures or property to gain access to or to protect any person or property in connection with an Incident.
27. The Fire Chief or Incident Commander, and any Member designated by either of them, is authorized to take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fire or to mitigate an Incident.
28. In connection with an Incident, the Fire Chief or Incident Commander may, in his or her discretion, establish boundaries or limits of an area and keep persons from entering such area, unless authorized to enter by the Fire Chief or Incident Commander. The Fire Chief is authorized to order tactical evacuations, as contemplated by the *Fire Safety Act*, in relation to a fire or other Incident.

29. The Fire Chief or Incident Commander may obtain assistance from other agencies in order to discharge his or her duties and responsibilities under this bylaw or any other applicable bylaw of the Corporation.

Risk-Based System of Compliance Monitoring

30. The Fire Chief shall establish, and the Department shall operate, a risk-based system of compliance monitoring of Public Buildings within the Fire Service Area, in accordance with the requirements of the *Fire Safety Act* and regulations made thereunder.
31. The Fire Chief may determine which Public Buildings are to be subject to Inspections and which Public Buildings are to be the subject of Fire Safety Assessments. The frequency of Inspection for any Public Building shall be set by the Fire Chief, based on the risk assigned to the particular Public Building under the risk-based system of compliance monitoring established in accordance with section 30.
32. Members of the Department are hereby authorized to conduct Inspections, provided that any Member conducting an Inspection must be trained as a Fire Inspector as required by the *Fire Safety Act*.
33. The Fire Chief shall ensure that the risk assessments are reviewed periodically at such intervals as the Fire Chief considers advisable or as otherwise may be required under the *Fire Safety Act*.
34. An owner of a Public Building who is required to produce a Fire Safety Assessment shall do so within 30 days of the Department's request, using the format prescribed under the *Fire Safety Act*.
35. A Fire Safety Assessment produced under this bylaw must be updated annually by the owner of the Public Building, and the updated Fire Safety Assessment submitted to the Department, unless an Inspection has been conducted by the Department during that year. A Fire Safety Assessment produced under this bylaw must also be updated by the owner of the Public Building at any time that there has been any change to the Public Building, or any change to the use of the Public Building, that makes the existing Fire Safety Assessment inaccurate, incomplete or obsolete.
36. Where a Fire Safety Assessment has not been produced as required by section 34, the Department may conduct an Inspection and levy a charge for that Inspection as provided in Schedule A to this bylaw.
37. Where a person, business or other undertaking is required by the Fire Code to develop and maintain a Fire Safety Plan, a copy of such Fire Safety Plan shall be submitted to the Department for review in accordance with the Fire Code. The Fire Department may prescribe the form in which any Fire Safety Plan is to be submitted, including that the Fire Safety Plan must be submitted in a specified electronic format.

38. The Fire Safety Plan shall be reviewed not less than annually by the owner of the property. The Fire Safety Plan shall be updated and a new Fire Safety Plan submitted to the Department for review if at any time that there has been any change to a building, property or premises, or any change to the use thereof, that makes the existing Fire Safety Plan inaccurate or obsolete.
39. Notwithstanding any review of a Fire Safety Assessment or Fire Safety Plan by the Department, the owner of the Public Building or other property in respect of which a Fire Safety Assessment or Fire Safety Plan is submitted remains solely responsible for the content and sufficiency of that assessment or plan, and neither Department nor the Corporation shall be liable for any deficiency in any Fire Safety Assessment or Fire Safety Plan or for any loss, damage, costs or injuries arising from that deficiency.
40. The Department may charge for the cost of conducting an Inspection, re-Inspection, reviewing a Fire Safety Assessment, conducting a Fire Investigation, reviewing a Fire Safety Plan or other use of Department services and resources, in each case in accordance with Schedule A to this bylaw.

Bylaw Enforcement

41. The Fire Chief, Deputy Fire Chief and, subject to the Department's Operational Guidelines, Members of the Department, and such other persons as Council may designate, are hereby authorized to enforce the requirements of this bylaw, the *Fire Code*, and any of the Corporation's other bylaws relating to fire prevention, fire safety, open burning, hazardous materials, dangerous goods or fireworks.
42. Enforcement of this bylaw may be effected by means of a ticket issued in accordance with the Corporation's *Ticket Information Utilization Bylaw, 1997*, as amended or re-enacted from time to time.

Prohibitions and Penalties

43. No person shall:
- (a) impede, hinder or obstruct any Member at an Incident or when carrying out his or her duties under this bylaw, and every person in the proximity of an Incident shall comply with orders or directions of a Member responding to the Incident;
 - (b) obstruct or otherwise interfere with access roads or other approaches to an Incident, or with fire hydrants, reservoirs or bodies of water required for fire suppression purposes;
 - (c) damage, destroy, obstruct, impede or hinder the operation of any Apparatus, or, unless authorized by the Fire Chief, Incident Commander or other Officer, travel across a fire hose or other Department equipment;

- (d) refuse to permit any Member to enter into or upon premises in relation to which an alarm or other request for assistance has been received, or in or upon which a Member has reasonable grounds to believe that an Incident has occurred or may occur;
 - (e) interfere with any Member or refuse to permit any Member to enter into or upon premises or a fire scene to determine the cause and origin of a fire or the cause of activation of an alarm system; and
 - (f) except as authorized by the Fire Chief, another Officer or an Incident Commander:
 - i. enter any building, structure, vehicle or area involved in or threatened by an Incident or any exclusion zone designated by the Fire Chief or Incident Commander under section 28; or
 - ii. refuse to move from such a building, structure, vehicle or area when directed to do so by a peace officer or Member or
 - iii. enter or fail to leave any area subject to a tactical evacuation order issued in accordance with section 28.
44. Any person who violates any provision of section 43 may, in addition to any other penalty, be removed from the scene of an Incident by a peace officer or the Fire Chief, an Officer or Incident Commander (or their designate).
45. Any person who damages Apparatus in contravention of subsection 43(c), in addition to any other penalty, shall be liable for the cost of repairing or replacing the Apparatus.
46. Any person who violates any provision of section 43 or section **Error! Reference source not found.** of this bylaw shall be guilty of an offence and shall be liable upon summary conviction therefor to a penalty not exceeding the maximum amount permitted under the *Offence Act* (B.C.) for every such violation, which penalty and cost shall be recoverable and enforceable upon summary conviction in the manner provided by the *Offence Act* (B.C.).

Force and Effect; Repeal of Bylaw No. 3803, 1994 and amendments

47. This bylaw will come into force and effect on December 31, 2018.
48. Upon the coming into force of this bylaw, Fire Regulation Bylaw No. 3803, 1994 and all amendments thereto are hereby repealed; provided, however, that any offence committed under such bylaw prior to its repeal may be charged, and any penalty or punishment levied under such bylaw may be imposed, as though such bylaw had not been repealed.

Citation

49. This bylaw may be cited as the “Fire Services Operational Bylaw, No. 4720, 2018.”

READ a first time this 9 day of October, 2018.

READ a second time this 9 day of October, 2018.

READ a third time this 9 day of October, 2018.

ADOPTED AND FINALLY PASSED by the Municipal Council on this 13 day of November, 2018.

Mayor

Director of Corporate Services

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