

## TOWN OF LADYSMITH

### BYLAW NO. 1815

A Bylaw respecting the prevention of fires and the protection of persons and property.

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**WHEREAS** pursuant to the *Community Charter*, SBC 2003, c. 26, the Council may, subject to the *Fire Services Act*, RSBC 1996, c. 144, and regulations made thereunder, by bylaw establish fire regulations for the protection of persons and property;

**NOW THEREFORE** the Council of the Town of Ladysmith, in open meeting assembled, enacts as follows:

#### APPLICATION

1. Burning Regulation Bylaw 1380, being cited as "Burning Regulation Bylaw 2001, No. 1380", is repealed.

#### CITATION

2. This bylaw may be cited as "Fire Prevention Bylaw 2013, No. 1815".

#### DEFINITIONS AND INTERPRETATION

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

"*BC Building Code*" - means the *British Columbia Building Code 2012*, adopted by BC Reg. 264/2012, as amended or re-enacted from time to time.

"*BC Fire Code*" - means the *British Columbia Fire Code 2012*, adopted by BC Reg. 263/2012, as amended or re-enacted from time to time.

"Campfire" - means a contained outdoor fire not exceeding 0.5 meters in diameter and 0.5 meters in height using fuel of seasoned wood, charcoal briquettes, propane or natural gas, being used for the purpose of cooking, providing heat or providing light.

"Class 1 Fire" - means an outdoor fire which permits special occasion and ceremonial fires only.

"Class 2 Fire" - means an outdoor fire which occurs in garden waste consisting of non-toxic garden materials stored on a parcel not exceeding one hectare in area, and includes grass clippings, leaves and branches pruned from trees and shrubs.

"Class 3 Fire" - means an outdoor fire which occurs in waste resulting from the demolition or construction of a building or structure where the volume of waste is limited to 0.5 cubic meters in volume.

"*Community Charter*" - means the *Community Charter*, SBC 2003, c. 26, as amended from time to time, and regulations made thereunder.

"Council" - means the Council of The Town of Ladysmith.

"Dwelling unit" - means a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons usually containing cooking, eating, living, sleeping and sanitary facilities.

"*Environmental Management Act*" - means the *Environmental Management Act*, SBC 2003, c. 53, as amended from time to time, and regulations made thereunder.

“False alarm” - means an alarm activated for a purpose other than where an emergency exists that necessitates a response by the Fire Department.

“*Farm Practices Protection (Right to Farm) Act*” - means the *Farm Practices Protection (Right to Farm) Act*, RSBC 1996, c. 131, as amended from time to time, and regulations made thereunder.

“Fire Chief” - means the person appointed by Council as head of the Fire Department, and includes a person:

- (1) designated by Council to act in the place of the Fire Chief;
- (2) who, for the purposes of a local assistant under the *Fire Services Act*, is authorized in writing by the Fire Chief to exercise the powers of a local assistant;
- (3) appointed by Council as the Deputy Fire Chief; or
- (4) for the purposes of exercising the powers of the Fire Chief under section 66 of the *Community Charter*, who is acting under the authority of the Fire Chief.

“Fire Department” - means the Ladysmith Fire/Rescue Service.

“*Fire Services Act*” - means the *Fire Services Act*, RSBC 1996, c. 144, as amended from time to time, and regulations made thereunder.

“Garden refuse fire” - means an outdoor fire in which garden refuse is deliberately burned for the purpose of disposal.

“Hazard” or “hazardous” - means any condition or thing that the Fire Chief considers is a fire hazard or that may increase the risk of the start, spread or danger of fire.

“Inspector” - means a bylaw enforcement officer, peace officer or designated member of the Fire Department, the Fire Chief, or a person acting under the authority of the Fire Chief.

“*Local Government Act*” - means the *Local Government Act*, RSBC 1996, c. 323, as amended from time to time, and regulations made thereunder.

“Member” - means a paid or volunteer member of the Fire Department, and includes the Fire Chief and an inspector.

“Nuisance” - means:

- (1) the act of creating or maintaining a fire that does not comply with the requirements of this Bylaw, which causes a response by the Fire Department; or
- (2) any act or operation which interrupts the ability of the Fire Department to carry out its duties without encumbrance.

“Occupant” or “Occupier” - means the resident owner, lessee, licensee or tenant of any building to which any provisions of this Bylaw apply.

“*Offence Act*” - means the *Offence Act*, RSBC 1996, c. 358, as amended from time to time, and regulations made thereunder.

“Officer” - means the Fire Chief, a captain of the Fire Department or their designates duly appointed from time to time to lawfully act in that capacity.

“Outdoor fire” - means a fire that burns outdoors in the open air that is not enclosed in a fireplace, furnace or other such device, but does not include the striking of a match.

“Outdoor fireplace” - means a secured container, which is commercially manufactured, certified by the Canadian Standards or a similar entity, and designed with a chamber to hold an outdoor fire, used for heat, light, or cooking purposes.

“Owner” - means the registered owner of an estate in fee simple or his/her agent authorized in writing, ownership in a corporation and a company and includes the tenant for life under a registered life estate, the registered holder of the last registered agreement for sale, corporate and public agency ownership, the holder or occupier of land held in the manner described in the *Local Government Act*, or an authorized agent of the owner acting on their behalf.

“Prohibited burning materials” - means material as defined in Schedule “A”.

“Smoke” - means the gases, particulate matter and all other products of combustion emitted into the atmosphere when a substance or material is burned.

“Smoke alarm” - means a combined smoke detector and audible alarm device designed to sound an alarm within the dwelling unit, suite or room in which it is located upon the detection of smoke within that room.

“Suite” - means a single room or series of rooms of complementary use, operated under a single tenancy, and includes individual guest rooms in motels, hotels, boarding houses, rooming houses and dormitories.

“Town” - means the Town of Ladysmith.

“Wood Burning Appliance” - means a solid fuel burning device including, without limitation, a stove and fireplace insert.

4. In this Bylaw, unless the context otherwise requires, any term defined in the *Community Charter* or the *Fire Services Act* shall have the same meaning in this Bylaw.

#### **FIRE DEPARTMENT AND CHIEF**

5. The Fire Chief is hereby authorized to exercise the following powers:
- (a) enter on any property in the event of an emergency or danger to a person or property;
  - (b) enter on any property and inspect premises for conditions that may cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire;
  - (c) take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fire;
  - (d) require an owner or occupier of real property to undertake any actions directed by the Fire Chief for the purpose of removing or reducing anything or condition that the Fire Chief considers is hazardous; and
  - (e) exercise some or all of the powers of the fire commissioner under sections 21, 22 and 25 of the *Fire Services Act*, including the following:
    - (i) If an emergency arising from a fire hazard or from a risk of explosion causes the Fire Chief to be apprehensive of imminent and serious danger to life or property, or of a panic, the Fire Chief may immediately take the steps they think advisable to remove the hazard or risk;
    - (ii) For the purposes of subsection (i), the Fire Chief may evacuate a building or area, and may call on the police authorities who have jurisdiction to provide assistance;

- (iii) If the Fire Chief believes that conditions exist in or near a hotel or public building, that, in the event of a fire, might seriously endanger life or property, the Fire Chief may immediately take the action they believe advisable to remedy the conditions to eliminate the danger and may evacuate and close the hotel or public building;
  - (iv) For the purposes of subsection (iii), the Fire Chief may call on the assistance of peace officers and fire prevention authorities.
6. The Fire Chief is authorized to take or order the following measures be taken in order to prevent spread of fire or to prevent damage to persons or property or loss of life:
- (a) the erection of barricades to prevent or impede access to the area where the hazardous material is being stored;
  - (b) the posting of signs or tape to prohibit access;
  - (c) the application of water or some other agent to the hazardous material to reduce the risk of fire;
  - (d) the covering or burial of the hazardous material to reduce the risk of fire;
  - (e) the removal or disposal, which may include a controlled burn, of the hazardous material;
  - (f) the cessation of the use of machinery or equipment in the vicinity of the hazardous material; and
  - (g) the demolition of any building or part of a building which, in his judgment, should be demolished to prevent the spreading of fire.

#### **FIRE PREVENTION AND SAFETY**

7. The following provisions shall apply to all owners, occupants and other persons, as applicable, in order to prevent spread of fire or to prevent damage to persons or property or loss of life:
- (a) The owner or occupant of any lands, premises, yards or buildings situated within the Town shall at all times keep the same in safe condition so as to guard against the starting and the spread of fire;
  - (b) The occupier of real property must keep and maintain in good working order any fire protection related equipment and fire protection structural features required to be installed pursuant to the *BC Building Code* or required to be maintained by the *BC Fire Code* or other enactment;
  - (c) No owner or occupant shall allow accumulations of empty boxes, barrels, rubbish, trash, waste paper excelsior or any light combustible materials, on any property, sidewalk or alley, except that such materials may be stored in a receptacle of fire resistant material fitted with fire doors, or in metal containers equipped with tight-fitting metal lids;
  - (d) The owner, occupier or agent of any vacant building must at all times keep the building free of debris and flammable material, and keep all openings in such buildings securely fastened and closed so as to prevent the entry of unauthorized persons. After notice of a requirement to secure or repair has been delivered by the Town to the owner or occupier of a building unsecured for more than a 7 day period, or in a state of repair contrary to this Bylaw, a building will be considered a threat to public safety, and Town staff or others may enter onto the property to secure or repair as required in the notice. Any charges incurred by the Town in securing or repairing the building are the responsibility of the owner in accordance with section

17 of the *Community Charter* and may be collected in accordance with section 258 of the *Community Charter* as property taxes;

- (e) The owner of a fire damaged building will ensure that the building is either guarded or all openings secured to prevent unauthorized entry;
  - (f) The occupier of any lands, premises, or facilities of buildings must at all times keep same in safe condition so as to guard against the starting or spreading of fire by complying with the requirements of Division B of the *BC Fire Code*. In particular, and without limiting the generality of the foregoing, an occupier must, where applicable:
    - (i) maintain the required vehicle access for the Fire Department;
    - (ii) maintain a means of egress;
    - (iii) provide and maintain an approved fire safety plan;
    - (iv) maintain fire hydrants in an approved manner;
    - (v) maintain the fire alarm;
    - (vi) maintain emergency lighting and exit lighting;
    - (vii) maintain commercial cooking equipment;
    - (viii) maintain portable fire extinguishers; and
    - (ix) maintain an automatic sprinkler and /or standpipe and hose system;
  - (g) The owner of a building having a fire alarm system or a sprinkler system must maintain and provide a current list of accessible contact person(s) to the Fire Department. Contact person(s) must be available to attend all alarms within 1 hour from the time they are notified;
  - (h) No person may smoke in areas where conditions may cause a fire or explosion and “No Smoking” signs shall be posted by the building owner or an authorized agent of the owner acting on their behalf; and
  - (i) Every mobile caterer carrying on business within the Town and utilizing commercial cooking equipment that creates grease laden vapours in a confined compartment must maintain and operate exhaust and hood systems that comply with the *BC Fire Code*.
8. The following provisions shall apply to all wood burning appliances:
- (a) No owner or occupier of real property may cause or permit smoke from the burning of prohibited burning materials in a wood burning appliance; and
  - (b) No person may install a wood burning appliance after the adoption of this Bylaw that does not comply with the emission standards established by the Canadian Standards Association or the United States Environmental Protection Agency, as outlined in the *Solid Fuel Burning Domestic Appliance Regulation*, BC Reg. 302/94 enacted under the *Environmental Management Act*.
9. The following provisions shall apply to all smoke alarms:
- (a) Every owner of a residential premise in the Town must ensure that smoke alarms are installed and maintained in every dwelling unit or suite and in each sleeping room not within a dwelling unit, except for institutional occupancies which are required by enactment to have a fire alarm system;

- (b) Every owner must test the smoke alarms in compliance with the manufacturer's recommendation within the dwelling unit, suite or sleeping room to ensure that the smoke alarm is functioning correctly. If a smoke alarm is not functioning correctly, the occupant, if he or she is not the owner, must inform the owner immediately on becoming aware of the failure, and the owner forthwith repair or replace the smoke alarm;
- (c) A smoke alarm required under this Bylaw must conform to the Canadian standard set by Underwriters Laboratories Canada (CAN/ULC) – "S531 Standard for SMOKE ALARMS", and be installed and maintained in conformance with "CAN/ULC - S553 Standard for the Installation of Smoke Alarms";
- (d) Without limiting subsection 4.3(c), a smoke alarm required for a residential premise must be installed in accordance with the *BC Building Code* and the *BC Fire Code*;
- (e) Every owner or occupier must notify the Fire Department of any work on or malfunction of a fire alarm system, to avoid false alarms being received;
- (f) Every owner or occupier must replace faulty alarm components in an expeditious manner to prevent undue false alarms being transmitted to the Fire Department; and
- (g) If the owner or occupier fails to keep the fire alarm system in repair, or to notify the Fire Department of testing, maintenance or any condition that causes the Fire Department to be summoned unnecessarily, the owner or occupier as applicable is liable to a fine as per section 9.0 of this Bylaw.

#### **FIRE SAFETY INSPECTION AND ORDERS**

10. The Fire Chief, Inspector and any Officer of the Fire Department may at all reasonable hours and subject to the terms in the *Community Charter* enter into and upon any property or private dwelling units:
  - (a) for the purpose of testing or inspecting;
  - (b) for the purpose of testing or inspecting buildings, as required by the *Fire Services Act*;
  - (c) to determine if the Fire Department access and an adequate water supply are available for fire suppression purposes; or
  - (d) to determine if the requirements of this Bylaw are being carried out.
11. The following obligations shall apply to all persons:
  - (a) No person may obstruct, hinder or prevent any authorized Fire Department member from entering into or upon any property or private dwelling units.
  - (b) The owner or occupier of a building or property or any other person having knowledge of a building or property must, upon request, give to a member of the Fire Department who is carrying out an inspection on a building or property such assistance as he/she may require in carrying out the inspection.
12. If the Fire Chief finds that any provision of this Bylaw has been contravened or has not been complied with, or has been complied with improperly or only in part, or that conditions exist in or upon a building or property to which the Bylaw applies and which, in their opinion, constitutes a fire hazard or otherwise constitutes a hazard to life and/or property, they may make such notice as to ensure full and proper compliance with this Bylaw, and in particular, but without limiting the generality of the foregoing, the Fire Chief may:

- (a) make to the owner, occupier or lessee of the building or property such recommendations as he deems necessary to correct the contravention or to ensure compliance with this Bylaw, or to remove the hazards referred to in the Bylaw; or
  - (b) make such notice as he deems necessary with respect to any of the matters referred to in this Bylaw, provided that such notice made under this Bylaw shall be in writing and must be directed to the occupier, or where the occupier is not the owner, to the owner and the occupier of the building or property in respect of which the notice is made.
13. An Inspection Notice made under this Bylaw shall be served:
- (a) by delivering it or causing it to be delivered to the person to whom it is directed; or by
  - (b) sending the notice by return registered or certified mail to the last known property owner at the owner's last known address; or
  - (c) after 14 days of sending a notice by return registered or certified mail to the last known property owner at the owner's last known address, posting a copy in a conspicuous place on the building or property if the person to whom it is directed cannot be found, is not known or refuses to accept service of notice.

#### **BURNING REGULATIONS**

14. No person shall:
- (a) except as expressly permitted by this Bylaw, start or maintain any outdoor fire or permit any outdoor fire on property owned or occupied by that person;
  - (b) burn any noxious, explosive, corrosive or toxic materials, pesticide or herbicide in an outdoor fire;
  - (c) burn materials brought from another location in an outdoor fire;
  - (d) light, ignite, start or allow or cause to be lighted, ignited or started, an outdoor fire without first obtaining a permit if required by this bylaw; or
  - (e) start or maintain a fire without adequate supervision or the capability of extinguishing the fire.
15. The following types of outdoor fires may be started and maintained at any time without a permit and are excluded from the regulations of this Bylaw:
- (a) fires used or recommended by the Ministry of Forests to manage ecosystems for purposes of silviculture management, forest fuel management, fire hazard reduction, wildlife enhancement, domestic range improvement and the use of fire as a means of fire control;
  - (b) fires started by the Fire Department for training purposes or to prevent the commencement or spreading of fire;
  - (c) burning by a farm business on the lands of a farm operation, as defined in, and in compliance with, the terms of the *Farm Practices Protection (Right to Farm) Act*; and
  - (d) Campfires and outdoor fireplaces meeting the following criteria:
    - (i) Campfires and outdoor fireplaces situated not less than 5 meters from any combustibles including but not limited to buildings, sheds, shrubs, grassy fields, or property boundaries; and

- (ii) Campfires contained and maintained in a manner that will prevent any fire from escaping or growing bigger than 0.5 meters in size.
16. No person shall start or maintain a Class 1 Fire unless it is for a civic event, function or festival approved by an Officer.
  17. No person shall start or maintain a Class 2 or 3 Fire or a garden refuse fire.
  18. A person who wishes to start an outdoor fire not excepted by section 6.1 shall obtain a permit and complete and sign an application in the form outlined in Schedule "B" attached to this Bylaw, subject to the following:
    - (a) An Officer may issue a permit in the form attached to this Bylaw as Schedule "B" and, prior to issuing a permit, inspect the proposed site of the fire and direct that actions be taken to comply with the provisions of this Bylaw and specify in the permit the fire fighting equipment to be provided on the site of the fire or any other precautions;
    - (b) The dates on which a permitted outdoor fire may burn shall be stated on the permit;
    - (c) An Officer may refuse to issue a permit when the Officer considers that it is not safe for the proposed fire to be started or maintained and may, without limiting what the Officer may take into account, consider weather conditions, site conditions and availability of Fire Department personnel to extinguish the proposed fire;
    - (d) The permit holder shall inspect the fire site following the permit expiration date and within 4 hours of the cessation of the fire and ensure that the fire is extinguished;
    - (e) Despite the issuance of a permit, no person may start a fire if wind and weather are such that to do so is likely to be hazardous or when banned under Provincial regulation;
    - (f) Despite the issuance of a permit, every person must comply with the requirements set out in the *Open Burning Smoke Control Regulation*, BC Reg. 145/93, enacted under the *Environmental Management Act*. Such requirements include, but are not limited to, the required distance an outdoor fire must be from buildings, duration of smoke release, smoke free periods per year, weather conditions and smoke reduction measures; and
    - (h) An Officer may take any action to ban, extinguish or require extinguishment of any burning under permit or the conditions of this section 6.4 that they consider hazardous or a nuisance.

## **PUBLIC DUTIES AND OBLIGATIONS**

19. No person may impede, hinder or obstruct the extinguishment by the Fire Department of any fire. Every person who fails to comply with the orders or instructions of a member of the Fire Department engaged or about to be engaged in the extinguishment of a fire may be forcibly removed from the scene of such emergency or fire by an Officer, peace officer or Inspector.
20. No person may refuse to permit any member of the Fire Department to enter into or on any premises, for which an alarm of fire has been received, or in or upon any premises while the member has reasonable grounds to suspect that a fire exists.
21. No person shall drive a vehicle over any fire hose or other Fire Department equipment without the permission of the Fire Chief or persons designated to give permission.

- 22. No person may cause or contribute to the causation of a false alarm which requires the Fire Department to be summoned. Any person found so intentionally or negligently causing a false alarm is liable to a fine as per section 9.0 of this Bylaw.

**ENFORCEMENT AND COST RECOVERY**


- 23. If an owner or occupier is in default of a notice made under this Bylaw, the Fire Department or the Town, by its workers or others, may enter the property and effect such work as required in the notice, at the expense of the owner or occupier so defaulting, and any charges so incurred and remaining unpaid on December 31 of that year shall be added to and form part of the taxes payable on the real property as taxes in arrears.
- 24. Every person who contravenes or violates any provision of the *BC Fire Code*, this Bylaw, or any permit or order issued pursuant to this Bylaw, or who 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 pursuant to this Bylaw, or who 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 pursuant to this Bylaw, commits an offence and is subject to prosecution in accordance with the *Offence Act*.
- 25. Any of the Bylaw Enforcement Officer, Inspector or the Fire Chief are designated to enforce this Bylaw under section 264(1)(b) of the *Community Charter*.

**GENERAL**

- 26. If any portion of this Bylaw is held to be invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phase.
- 27. If the singular or masculine or neuter is used in this Bylaw, the same must be construed as meaning the plural, the feminine or body corporate where the context so requires.
- 28. Schedules "A" and "B" form a part of and are enforceable in the same manner as this Bylaw.

READ A FIRST TIME	on the	21 <sup>st</sup>	day of	January, 2013
READ A SECOND TIME	on the	21 <sup>st</sup>	day of	January, 2013
READ A THIRD TIME	on the	21 <sup>st</sup>	day of	January, 2013
ADOPTED	on the	4 <sup>th</sup>	day of	February, 2013



  
 Mayor (R. Hutchins)

  
 Director of Corporate Services (S. Bowden)

**SCHEDULE "A"**  
Attached to and forming  
part of Bylaw No. 1815

Prohibited Burning Materials

The following shall constitute prohibited materials:

tires	treated lumber
plastics	railway ties
drywall	manure
demolition waste	rubber
domestic waste	asphalt products
paint	fuel and lubricant containers
hazardous waste	biomedical waste
tar paper	



**SPECIAL INSTRUCTIONS AND CONDITIONS**

1. Only well dried and cured products are to be burned.
2. The ventilation index, as defined in the *Open Burning Smoke Control Regulation*, BC Reg. 145/93, enacted under the *Environmental Management Act*, as amended from time to time, must be “good” for the day the open burning is to be started, and, if applicable, “good” or “fair” for the second day the debris is anticipated to release smoke. In addition, open burning must not be initiated if the local air flow will cause the smoke to negatively impact on nearby population.
3. Burning will only take place on Monday to Friday of any week.
4. Burning will be permitted between \_\_\_\_\_, 20\_\_\_\_ and \_\_\_\_\_, 20\_\_\_\_.
5. Burning must meet the requirements specified in the *Open Burning Smoke Control Regulation*.
6. Special Burning Permits issued will be valid only for that one occasion.
7. Permits will be cancelled if, in the opinion of the Fire Chief, the burning is creating a hazardous condition, and the fire will be ordered extinguished.
8. All other requests to burn will be referred to the Fire Chief for chipping consideration.