Village of Valemount
Open Air Burning Bylaw No. 703, 2016

The amendment bylaws which are included in this consolidated version of the "Village of Valemount Open Air Burning Bylaw No. 703, 2016" are:

Bylaw No. 771, adopted on March 28, 2017.

CONSOLIDATED FOR CONVENIENCE ONLY AS OF MARCH 22, 2021.

This consolidation of the Village of Valemount Open Air Burning Bylaw No. 703, 2016, and subsequent amendments has been prepared exclusively for the use of the Village of Valemount for convenience only.

The Village of Valemount does not represent that this consolidation is accurate or complete and anyone using this material should confirm its content by reference to the original Bylaws.

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Village of Valemount Open Air Burning Bylaw No. 703, 2016.
A Bylaw to regulate open air burning

WHEREAS the Local Government Act authorizes Council, by bylaw, to make regulations with respect to fire suppression and prevention:

AND WHEREAS the Community Charter authorizes a local government to regulate, prohibit and impose requirements in relation to the protection and enhancement of the air quality of the community;

AND WHEREAS the Community Charter authorizes Council to regulate, prohibit and impose requirements in relationship to the protection of the natural environment;

NOW THEREFORE the Council of the Village of Valemount, in open meeting assembled enacts as follows:

1. Title

1.1 This bylaw may be known and cited for all purposes as the "Open Air Burning Bylaw No. 703, 2016."

2. Repeals

2.1 Bylaw No. 673, 2011, Open Air Burning Bylaw, and all amendments to that bylaw are repealed.

3. Definitions

3.1 In this Bylaw, unless context otherwise requires:

a. "Approved incinerator" means a non-combustible container placed upon a non-combustible base and filled with a device or screen to contain sparks and flying debris;

b. "Building" means a structure used or intended to be used for supporting or sheltering any use or occupancy;

c. "Burning Permit" means a document issued pursuant to this bylaw authorizing a person to carry on an open burn under the specific conditions outlined in this Bylaw;

d. "Bylaw Enforcement Officer" means a person designated by the municipality to be responsible for enforcing this bylaw, except where otherwise provided.

e. "Campfire" means a contained fire not exceeding 60cm by 60cm in diameter and 60cm in height, contained within a fire pit and intended for cooking food, with direct or indirect heat;

g. "Council" means the Council for the Village of Valemount;

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

i. "Fire Department" means the Village of Valemount Fire Department and the officers of the Department;

j. "Fire Pit" means a non-combustible enclosure, being a minimum of 15cm in height; having a minimum of three sides, if rectangular; and having a maximum outside width of 60 cm and length of 60 cm; or having a maximum diameter (if round) of 60cm, and being a maximum height of 60cm in height;

k. "Fire Protection" means all aspects of fire safety including but not limited to fire prevention, firefighting or suppression, pre-fire planning, fire investigation, public education and information, training or other staff development and advising;

l. "Incident" means a fire or situation where a fire explosion is imminent and includes an assistance response from the Fire Department;

m. "Municipal Representative" means the Chief Administrative Officer, Corporate Officer or their designate;

n. "Nuisance" means the emission into the atmosphere of smoke by any means, which disturbs the comfort or convenience of persons in the vicinity;

o. "Occupier" means any person who occupies the property, or who is qualified to maintain an action for trespass in respect of the property, and/or who is in possession of the property under lease, license, agreement for sale or other agreement with the owner of the property;

p. "Open Air Burning" means any fire, other than a campfire, conducted outside a building, including a fire conducted in a garden, yard, alley, field, park, industrial site, building lot, street or other place;

q. "Prohibited Burning Material" means waste material including demolition renovation or construction waste material and those listed in the Open Burning Smoke Control Regulation enacted pursuant to the Environmental Management Act as amended from time to time including the following;

i. Tires
ii. Treated wood
iii. Plastic
iv. Railroad ties
v. Drywall
x. Domestic Waste
xi. Asphalt
xiii. Paint
xiii. Asphalt products
xiv. Special waste

vi. Manure
vii. Demolition waste
vii. Rubber
ix. Standing grass
xv. Fuel & Lubricant containers
xvi. Tar Paper
xvii. Bio-medical waste

r. "Smoke" means the gas, particulate matter and all products of combustion emitted into the atmosphere when a substance or material is burned including, without limitation, smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia.

5. Burning Permit

5.1 Unless prohibited pursuant to Section 10 of this Bylaw, no person may start open air burning on a parcel of land unless the person holds a valid burn permit issued pursuant to Schedule A of this Bylaw.

5.2 Any person wishing to start open air burning shall first obtain a permit from the Village Office during regular business hours.

5.3 The burning permit holder shall have the burning permit available on site for review by any Fire Department member, Bylaw Officer or Municipal Representative.

5.4 The burning permit holder is responsible for controlling the fire, completely extinguishing the fire and is responsible for any damages caused by the fire.

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5.5 *A burning permit for any form of open-air burning is required at any and all times of the year. The Bylaw Enforcement Officer may issue a permit based upon satisfactory and safe weather conditions that adhere to provincial regulations.*

5.6 Open fires requiring a burning permit shall be no larger than a meter in height and a meter by a meter in width (100 cm by 100 cm in width by100 cm in height).

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5.7 Burning of wood debris from land clearing projects are generally discouraged and the landowner should seek alternative methods. However, when alternative methods are unavailable, unreasonable or cost-prohibitive, burning of wood debris from land clearing projects may be permitted under the following conditions:

a. A burning permit shall first be obtained from the Village Office;

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b. Permits will only be issued for land clearing projects based upon satisfactory and safe weather conditions that comply with all provincial regulations;

c. Appropriate firefighting equipment and personnel shall be stationed on site during the burn;

d. Burn piles shall only be ignited when weather conditions are favourable to burn (ie: wind, venting Index- see section 6.4, 6.6);

e. No burning shall be commenced or permit issued before the Fire Department member, Bylaw Enforcement Officer or Municipal Representative has approved the site, size and location of burn piles;

f. *No burning permits shall be issued for land clearing projects when satisfactory and safe weather conditions are not present. During periods of prolonged "High" and "Extreme" fire indexes, the Bylaw Enforcement Officer may order land clearing material and wood debris to be hauled to approved land fill or transfer sites in order to abate the fire hazard;*

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g. The land owner shall retain full responsibility for land clearing, hauling debris, piling and burning.;

h. Permits issued by the Village of Valemount still require permit holders to contact the Ministry of Environment in relation to proper burning procedures.

6. Open Air Burning Prohibitions

6.1 No person may start an open fire in the Village of Valemount without first receiving authorization from the Village of Valemount;

6.2 No material other than brush material, including tree limbs and branches, leaves, bush trimmings or raked grass shall be burned;

6.3 No industrial or domestic waste of any kind, construction material or pressure treated wood shall be burned;

6.4 No open burning is allowed on days when the ventilation index is defined as "poor" by Environment Canada;

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6.5 No burning materials shall be added to a fire after 1700 hours (5:00 p.m.) unless permission is granted by the Bylaw Enforcement Officer.

6.6 No open burning is permitted during winds greater than 20 kilometers per hour;

6.7 Fire or smoke from an open-air burn shall not create a nuisance for those in the surrounding area;

6.8 No person shall be granted an open-air burning permit, or burn when there is a "no burn" advisory from the Government of British Columbia.

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7. Clearances

7.1 No open burning is allowed:

a. Within 2 meters of any hedges or fence or 5 meters of any combustible structure when using an approved incinerator;

b. Within 8 meters of any building or structure, fence or hedge when not using an approved incinerator;

c. Within 10 meters of any stream;

d. To exceed 1 meter in height and 1 meter in diameter;

e. Within 5 meters of any public roadway;

f. Within 5 meters of any power poles or power lines;

g. Within 6 meters of any propane or fuel tanks;

h. Within 500 meters of any school between 8:00a.m. to 5:00p.m. during regular school days;

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i. Within 100 meters of any residence at all times;

j. Within 500 meters of any medical centre at all times.

8. Means of Control

8.1 Every person to whom a burning permit has been issued must:

a. Ensure that open air burning is in accordance with any terms and conditions contained in the burning permit or in the guidelines or instructions presented by the Fire Department member, Bylaw Enforcement Officer or Municipal Representative;

b. Ensure an individual over the age of eighteen is in charge of the open burn and is on site and prepared with the appropriate equipment required to control and extinguish the fire;

c. Ensure that the burn does not get out of control and/or cause damage to any property or person.

9. Public Safety

9.1 No person shall burn material in any manner which;

a. Produces heavy or toxic smoke and/or fly ash which endangers the health, safety or welfare of persons or animals; or,
b. Causes smoke to obscure visibility and thereby creates a hazard to the public at large, or traffic on a public roadway; or,
c. Creates a nuisance to those in the area.

10. Restriction or Cancellation of Permits

a. The Fire Department member, Bylaw Enforcement Officer or Municipal Representative may require any person to extinguish open air burning which is in breach of any provision, condition or restriction of this Bylaw or any burning permit issued pursuant to this Bylaw;

b. Where, in the opinion of the Fire Department member, Bylaw Enforcement Officer or Municipal Representative, hazardous open air burning conditions develop or exist, the Fire Department member, Bylaw Enforcement Officer or Municipal Representative may, at any time, make an order cancelling or suspending all or any permits issued pursuant to this Bylaw, or attaching to all permits, any conditions or restrictions as the Fire Department members, Bylaw Enforcement Officer or Municipal Representative may deem necessary;

c. All burning permits issued will be considered null and void if the Government of British Columbia bans open fires, and/or campfires in Valemount's jurisdiction. This "NO BURN" policy will continue to be enforced until such time the appropriate provincial government agency rescinds the restriction.

11. Exemptions

a. This Bylaw does not apply to the normal use of charcoal, gas fired or electric grills and barbecues for the purpose of cooking food or approved gas fueled outdoor fireplaces or heaters;

b. This Bylaw does not apply to open air burning set for the purpose of Fire Department "Live Fire" training exercises;

c. Special burn permits may be issued during Provincial wide fire bans, with written consent of Council and the Fire Department, but only after a detailed report has been issued to Council outlining why the fire is needed and the precautionary steps that will be taken to avoid a fire spread.

12. Campfire/Cooking Fire

12.1 An outdoor campfire may be operated without a permit between 7:00 am and 1:00am provided that:

a. There is a distance of not less than 6 meters between the fire pit and any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible articles;

b. The fire is fully contained and controlled within the pit and does not exceed more than 60cm in height and 60cm in diameter;

c. It is contained by a distinctive, raised, non-combustible barrier that has a minimum height of 15cm, and completely surrounds the fire pit to prevent the fire from spreading to the surrounding area;

d. No material other than brush material including tree limbs, branches and brush trimmings or manufactured logs specifically designed for

fireplaces shall be used in any outdoor fire pit;

e. It does not create a nuisance;

f. A portable fire extinguisher or operable garden hose is available from the time of setting of the fire until the fire is totally extinguished;

g. The owner or occupier is eighteen years of age or older and maintains constant watch and control over the outdoor fire pit from the time of the setting of the fire until the fire is completely extinguished;

h. Fire pits will be disallowed if the Government of British Columbia issues open fire or campfire restrictions and will not be allowed until such time the appropriate agency rescinds the restriction.

13. Enforcement and Cost Recovery

13.1 Where the Fire Department member, Bylaw Officer or Municipal Representative 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 and which, in their opinion, constitutes a fire hazard or otherwise constitutes a hazard to life and/or property, they may make an order to ensure full and proper compliance with this Bylaw or to eliminate the fire hazard. Without limiting the generality of the foregoing, they may:

a. Give the owner, occupier or lessee to the building or property such directions as they deem necessary to correct the contravention or to ensure compliance with this Bylaw or to remove the hazards; or,

b. Make such an order as they deem necessary with respect to any of the matters referred to in this Bylaw.

13.2 An order made under this Bylaw shall be in writing and shall be directed to the owner, occupier or lessee of the building or property in respect of which the order is made or to both;

13.3 Where the owner or occupier fails to comply with any order under this section, the Fire Department member, Bylaw Enforcement Officer or Municipal Representative may, at the expense of the owner or occupant, cause the condition to be remedied as required;

13.4 Any expenses incurred by the Village under Section 11 above are recoverable pursuant to Section 258 of the Community Charter;

13.5 Cost recovery will depend on the amount of the personnel and equipment required to deal with emergency response for an open fire/camp fire that has spread from its intended area. A number of factors will be considered in cost recovery including but not limited to: Number of violations/notices, blatant disregard for life safety, blatant disregard for health safety, size and severity of affected area, and amount of material cost included in successful suppression.

13.6 The cost recovery bill will be approved by the Village CAO and Fire Department Chief.

14. Offense and Penalty

14.1 No person shall commit any act or permit any act or thing to be done in contravention of this bylaw.

14.2 Every person who violates any provision of this bylaw, or who permits any or thing required by this by-law, shall be deemed to have committed an act or thing to be done in contravention of this bylaw, or who fails to do any act offence against this by-law and:

a. Shall be liable to any conditions set out in the Village of Valemount Bylaw Notice Enforcement and Dispute Adjudication System Bylaw;

or;

b. Shall be liable, upon summary conviction, to the penalties provided under the Offence Act; or

c. Any combination of the above.

14.3 Each day that an offence against this bylaw continues shall be deemed a separate and distinct offence.

14.4 Any penalty imposed pursuant to this bylaw shall be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, law or legislation.

15. Severability

15.1 If any section, subsection or clause of this bylaw is declared or held to be invalid by a court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this Bylaw shall be deemed to have been enacted and adopted without the invalid and severed section, subsection or clause.

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Read a First Time this 12th day of January, 2016
Read a Second Time this 12th day of January, 2016
Read a Third Time this 12th day of January, 2016
Reconsidered and Adopted this 26th day of January, 2016

Corporate Officer, Andrew Young

Mayor, Jeannette Townsend