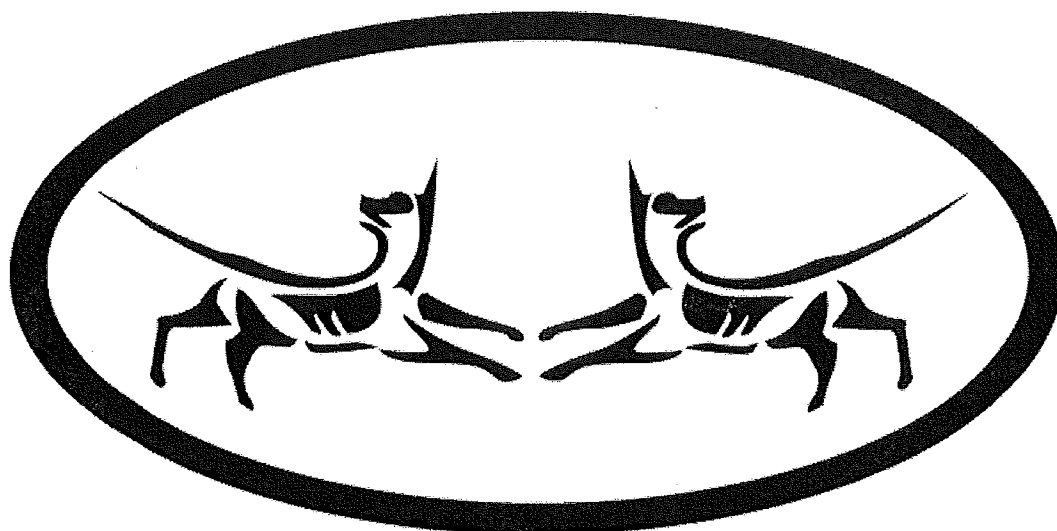




**PENTICTON INDIAN BAND
FIRE PROTECTION BY-LAW, 2015-01**

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FIRE PROTECTION BY-LAW, 2015

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A. **WHEREAS** sections 81(a), (c), (d), (f), (h), (q) and (r) of the *Indian Act* empower the Council of an Indian Band to pass by-laws to provide for the health of residents on the reserve, observance of law and order, prevention of disorderly conduct and nuisances, local works and regulation of construction on the reserve, in addition to matters arising out of or ancillary to the exercise of those powers and the imposition of a penalty for the violation of any by-law made under those powers; and

B. **AND WHEREAS** the Council of the Penticton Indian Band is of the opinion that it is in the best interests of the Penticton Indian Band to enact a by-law that regulates activities that may cause fires on reserve and that establishes a collaborative relationship between the Penticton Fire Department and Penticton Indian Band with a goal of ensuring the safety of the public and the protection of identified PIB lands;

NOW THEREFORE, the Council of the Penticton Indian duly enacts as follows:

PART I CITATION

1. This By-law may be cited as the *Penticton Indian Band Fire Protection By-law 2015*.

PART II DEFINITIONS, INTERPRETATION AND APPLICATION

Definitions

2. In this by-law:

"B.C. Building Code" means the regulations made pursuant to Division 1 of Part 21 of the *Local Government Act* RSBC 1996 c. 323 and any amendments thereto;

"B.C. Fire Code Regulation" means the regulation made pursuant to the *Fire Services Act* RSBC 1996 c. 144;

"bulk plant" means a portion of identified PIB lands where flammable or combustible liquids are received in bulk quantities and stored or handled for the purpose of commercial distribution;

"building" means a man-made structure with a roof and walls that stands more or less permanently in one place and that is located on identified PIB lands;

"Chief" means the person who is elected into the position of Chief under to the *Penticton Indian Band Custom Election Code*;

"combustible" means able to be burned or ignited easily;

“*Constitution Act*” means the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11;

“Council” means the body composed of those persons elected under to the *Penticton Indian Band Custom Election Code* and any successor government;

“councillor” means a member of the Council who is not the Chief;

"dangerous goods" means:

(a) any product, substance or organism which is of a highly combustible, flammable, or explosive nature, as set out in:

- (i) the B.C. Fire Code Regulation,
- (ii) the National Fire Protection Association Codes, and
- (iii) the *Transportation of Dangerous Goods Act*;

(b) any other material that, because of its toxic or inherent characteristics, constitutes a fire hazard or hazard to life, safety or health; and

(c) the following classes of materials:

- (i) Class 1 - explosives, including explosives as defined in the *Explosives Act*,
- (ii) Class 2 - gases, including compressed gases, liquefied petroleum, liquefied natural gas, and liquefied or dissolved gases under pressure,
- (iii) Class 3 - flammable liquids and combustible liquids,
- (iv) Class 4 - flammable solids, including substances liable to spontaneous combustion and substances that on contact with water emit flammable gases,
- (v) Class 5 - oxidizing substances including organic peroxides, chlorates, nitrates;
- (vi) Class 6 - poisonous (toxic) and infectious substances,
- (vii) Class 7 - radioactive materials including prescribed substances within the meaning of the *Nuclear Energy Act*,
- (viii) Class 8 - corrosives, and
- (ix) Class 9 - miscellaneous dangerous goods or organisms not included in any of the above classes;

“equipment” means any tools, contrivances, devices or materials used by the fire department to combat a fire or other emergency.

"explosion" means a rapid release of energy that:

- (a) may or may not be preceded or followed by a fire;
- (b) produces a pressure wave or shock wave in the air; and
- (c) is usually accompanied by a loud noise;

"*Explosives Act*" means the *Explosives Act* R.S., c. E-15, S.1.;

"Fire Chief" means a person appointed by the Council of the City of Penticton as Chief of the fire department;

"fire department" means the Penticton Fire Department as established and continued pursuant to section 4 of the Penticton Fire and Life Safety By-law;

"fire fighting vehicle" means any vehicle that is furnished with machinery, devices, equipment or materials for firefighting or with equipment used to transport fire fighters or their supplies;

"*Fire Services Act*" means the *Fire Services Act*, R.S.B.C. 1996 c. 144 and any regulations made thereunder;

"fire services personnel" means a person employed by the fire department;

"fireworks" means a composition that burns energetically and if confined explodes, and materials regulated in the fireworks manual;

"fireworks manual" means the publication of that name issued pursuant to the *Explosives Act*;

"*Indian Act*" means the *Indian Act*, R.S.C., 1985, c. I-5;

"identified PIB lands" means those PIB lands that are identified in a fire services agreement entered into under section 6;

"inspector" means any fire services personnel authorized in writing by a Fire Chief to act in such capacity;

"N.F.P.A." means the National Fire Protection Association;

"*Nuclear Energy Act*" means the *Nuclear Energy Act* R.S., 1985, c. A-16s.1, 1997 c. 9, s.89;

"occupier" means a tenant, lessee, agent or any other person who an owner has granted a right to access or control a building or identified PIB lands;

"officer in command" means the senior fire department member present at any given time;

"opacity" means the degree to which the visibility of a background, viewed through a plume of smoke, is reduced;

"owner" means:

(a) in relation to identified PIB lands that are held under a certificate of possession, the person who is named in the certificate of possession; or

(b) in relation to identified PIB lands that are not held under a certificate of possession, the Penticton Indian Band;

"Penticton Fire and Life Safety By-law" means the Penticton Fire and Life Safety By-law (Bylaw No.2004-57);

"Penticton Indian Band" means the Penticton Indian Band, a band within the meaning of section 2(1) of the *Indian Act*;

“PIB lands” means the following reserve lands, as that term is defined in section 2(1) of the *Indian Act*:

- (a) Penticton 1: Osoyoos and Similkameen Districts at the South end of Okanagan Lake (18,596.80 hectares);
- (b) Penticton 2: Similkameen District, TWP 87, between Okanagan Lake and Dog Lake (13.10 hectares);
- (c) Penticton 3A: Osoyoos District, Lot 3317, Group 1 West of and adjoining I.R. No. 1, 5 miles Southwest of Summerland; and
- (d) lands set apart by Canada in the future as lands reserved for the use and benefit of the Penticton Indian Band, within the meaning of subsection 91(24) of the *Constitution Act* and section 2(1) of the *Indian Act*;

“*Penticton Indian Band Custom Election Code*” means the *Penticton Indian Band Custom Election Code 2015*;

“permitted wood burning appliance fuel” means seasoned untreated wood or manufactured products such as wood pellets, and fuel logs retailed for use as a fuel in a solid fuel burning appliance;

"private fire hydrant" means any fire hydrant located on identified PIB lands that are owned under a certificate of possession;

“*Transportation of Dangerous Goods Act*” means the *Transportation of Dangerous Goods Act* R.S.B.C. 1996 c. 458; and

“wood burning appliance” means a solid fuel burning device including, without limitations, a stove, fireplace or fireplace insert.

Interpretation

3. This by-law must be interpreted in a fair, large and liberal manner.

4. In this by-law:

- (a) the use of the word “must” denotes an obligation that, unless this by-law provides to the contrary, must be carried out as soon as practicable after this by-law comes into effect or the event that gives rise to the obligation;
- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (c) headings and subheadings are for convenience only, do not form a part of this by-law and in no way define, limit, alter or enlarge the scope or meaning of any provision of this by-law;
- (d) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;

(e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular; and

(f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.

Application

5. (1) This by-law applies to all identified PIB lands at all times that a fire services agreement that is entered into by Council under section 6 is in force and effect.

(2) This by-law applies insofar as it is consistent with a fire services agreement entered into by Council under section 6.

(3) Upon request by any person, the following persons must provide confirmation of whether a fire services agreement is in force and details of the identified PIB lands to which such fire services agreement applies:

- (a) the Chief;
- (b) a Councillor;
- (c) the Fire Chief; and
- (d) fire services personnel.

PART III FIRE DEPARTMENT

Fire Services Agreements

6. Council may enter a fire services agreement that authorizes the fire department, Fire Chief and fire services personnel, to provide the following services on identified PIB lands:

- (a) fire inspection services, including:
 - (i) inspections for combustible or explosive materials, fire hazards and other conditions which may cause fire, increase the danger of fire occurring or increase the danger of a fire spreading to endanger life or property,
 - (ii) inspections that are allowed under the *Fire Services Act*,
 - (iii) inspections to determine whether a person is in compliance with this by-law,
 - (iv) inspections related to the construction of all new buildings and structures on

identified PIB lands other than single-family dwellings, in order to establish that the fire protection facilities and equipment are in compliance with this by-law, and

- (v) inspections that are necessary for the provision of fire services and the use of equipment or a firefighting vehicle;
- (b) services aimed at preventing, controlling and extinguishing fires on identified PIB lands;
- (c) services that deal with any matter arising from an inspection, including fines and orders in accordance with the *Fire Services Act*, the Penticton Fire and Life By-law or any other applicable law or regulation determined applicable by Council; and
- (d) services required in response to:
 - (i) medical emergencies,
 - (ii) land and water rescue operations,
 - (iii) requests from other fire services,
 - (iv) dangerous goods incidents,
 - (v) requests for public service; and
- (e) services related to the investigation and reporting of the cause, origin and circumstances of a fire on identified PIB lands to ascertain whether that fire was due to accident, negligence or design.

PART IV FIRE PROTECTION

Power to Evacuate Persons from Identified PIB Lands

7. If the Fire Chief determines that an imminent and serious danger to human life, a building or identified PIB lands exists due to a fire, fire hazard, toxic chemical spill, a risk of explosion or any other cause, the Fire Chief may take the steps he deems necessary to remove the hazard or risk, including the evacuation of persons from a building or area and may call upon the police or such other personnel as may be required to assist and provide security to the evacuated area.

Order to Remove Fire Hazard

8. Council or the Fire Chief may make an order that an owner or occupier of a building or identified PIB lands must remove or otherwise deal with the following materials in accordance with Council or the Fire Chief's specific instructions:

- (a) any material Council or the Fire Chief determines is of a flammable, combustible or explosive nature and that is in or upon any building or identified PIB lands;
- (b) any waste materials, litter or vegetation that is located in or upon any building or identified PIB lands that Council or the Fire Chief determines constitutes a fire hazard and may:

- (i) endanger human life, a building or identified PIB lands,
 - (ii) obstruct access into or out of a building or identified PIB lands in the case of fire,
 - (iii) interfere with the operations of the fire department in an emergency, or
- (c) any other materials that in the circumstances are considered by Council or the Fire Chief to be a fire hazard.

Order for the Closure of a Forest Area

9. Where the Council or the Fire Chief determine that the safety of human life, or the safe condition of a building or identified PIB lands is endangered by the hazardous condition of a forest cover or the occurrence or spread of a fire in any forest or woodland, Council or the Fire Chief may make an order declaring:

- (a) that the area is closed for such period or periods of time as Council or the Fire Chief may determine;
- (b) that a person must not enter into or be within the closed area unless so authorized by Council or the Fire Chief;
- (c) that no person may carry out operations of any class specified in the order within the closed area; or
- (d) any combination of those conditions under paragraphs (a), (b) and (c).

Duty of Person Carrying on an Operation in a Forest

10. A person carrying on, or who has carried on, lumbering, land clearing or industrial operations on identified PIB lands must ensure that those activities do not cause, or have not caused, a risk of danger to life or identified PIB lands, and such responsibility includes:

- (a) the burning or removal of all debris that might endanger life;
- (b) the removal of all dead standing trees and stumps that might endanger life; and
- (c) the labour and precautions that Council or the Fire Chief determine are necessary to prevent the escape of fire or damage to identified PIB lands.

False Alarms

11. A person must not make or circulate, or cause to be made or circulated, any alarm of fire by outcry, ringing of bells or otherwise without reasonable cause.

Access to Fire Hydrants and Fire Department Connection

12. A person must not interfere with the fire department's access to a fire hydrant.

Vacant buildings

13. At the request of Council, the owner of a vacant building on identified PIB lands must:

(a) register the status of the vacant building with the Penticton Indian Band Reserve Lands Department;

(b) maintain two million dollars (\$2M) in liability insurance on the vacant building, naming the Penticton Indian Band as an insured;

(c) ensure at all times, that all exterior doors to the vacant building are either:

(i) operational, fit tightly within their frames when closed and are locked so as to prevent entry, or

(ii) boarded up with a solid piece of plywood that fully covers the door frame and that is at least one centimeter (1cm) thick and secured with spikes at least eight centimeters (8cm) in length, spaced not more than fifteen centimeters (15cm) apart from one another; and

(d) ensure at all times, that all exterior windows to the vacant building are either:

(i) permanently sealed or locked so as to prevent entry, or

(ii) boarded up with a solid piece of plywood that fully covers the window from and that is at least one centimeter (1cm) thick and secured with spikes at least eight centimeters (8cm) in length, spaced not more than fifteen centimeters (15cm) apart from one another.

14. (1) A person must not allow a building for human, industrial, or commercial use or occupancy to stand vacant for more than sixty (60) days unless one of the following conditions exists:

(a) the building is the subject of an active permit for construction, repair or renovations and the owner is progressing diligently to complete the construction, repair or rehabilitation;

(b) the building is scheduled to be demolished and the owner is awaiting the demolition date;

(c) the building is ready for occupancy, being maintained, and is actively being offered for sale, lease or rent; or

(d) the Council determines, by band council resolution, that the building does not contribute to a nuisance or hazardous condition requiring remedial work or demolition.

Fire Doors and Shutters

15. Where doors or shutters are installed in a building to prevent the spread of fire, the owner of that building must ensure those doors or shutters, inclusive of hardware, are at all times kept and maintained in good repair and working order and that they are not blocked or wedged open.

Elevator Shafts

16. A person must not store, place, keep, maintain or allow dangerous goods to be stored, placed, kept or maintained in any part of an elevator shaft in a building.

17. The owner of a building with an elevator must ensure at all times that the well of the elevator shaft is kept clean and free from rubbish, litter, and flammable substances.

Ventilating Shafts

18. A person must not use a ventilating shaft for a purpose other than ventilation.

Chimneys, Flues and Vents

19. Every owner and every occupier of a building or identified PIB lands must ensure that:

(a) every chimney flue and chimney connector in their building or identified PIB lands is cleaned of all accumulation of debris as often as may be necessary to keep the chimney and chimney connector free from danger of fire; and

(b) a chimney, flue, or stack, and any metal extension thereof in their building or identified PIB lands is maintained in a safe condition.

Disposal of Combustible or Flammable Material

20. A person must not deposit, or cause to be deposited, any greasy or oily rags or other things liable to spontaneous heating, within one metre (1m) of combustible or flammable materials, unless those rags or other things are deposited in a non-combustible storage container.

21. An occupier of a building or identified PIB lands who makes, stores or uses combustible or flammable material must ensure that the combustible or flammable material is stored in a non-combustible storage container.

Disposal of Ashes and Matter

22. A person taking ashes or other matter from a stove, furnace, fireplace or other similar device, must ensure such ashes or other matter are deposited in a non-combustible storage container.

23. A person must not deposit ashes, allow the deposit of ashes, or cause ashes to be deposited within one metre (1m) of combustible or flammable material.

24. A person must not deposit, allow the deposit, or cause the deposit of combustible or flammable material in or among ashes or other matter taken from a stove, furnace, fireplace or other similar device.

Private Hydrant and Water Supply Systems on Lands Held Under a Certificate of Possession

25. A person who has a certificate of possession and wishes to construct a new private water supply system or extend an existing private water supply system on their property must submit a

plan to the Fire Chief and receive approval from the Fire Chief before undertaking that construction.

26. A person who has a certificate of possession and is constructing a building on their land must:

- (a) provide roads finished to a minimum of good compacted gravel for adequate access for fire fighting vehicles;
- (b) provide a water supply system for fire protection as soon as practical; and
- (c) notify the fire department of all newly installed private fire hydrants.

27. (1) A person who has a certificate of possession must ensure that all private fire hydrants on their land are:

- (a) maintained in good operating condition;
- (b) inspected and maintained in accordance with the B.C. Fire Code Regulation; and
- (c) painted in compliance with the N.F.P.A. publication "Marking of Hydrants".

(2) A person who has a certificate of possession must keep up to date records of maintenance to all private fire hydrants on their land and forward such records annually to Council and the Fire Chief.

28. A person who has a certificate of possession must ensure that all installations of private fire hydrants or private water systems on their land are designed and supervised by a civil engineer who is a member in good standing of the Association of Professional Engineers and Geologists of British Columbia.

29. A person who has a certificate of possession must notify the fire department of any circumstances known to that person, with regard to their private fire hydrant or private water system that may affect fire safety on identified PIB lands.

Bulk Plants

30. (1) A person who owns or operates a bulk plant must ensure that the bulk plant is equipped with active and functioning fire hydrants and a water supply system that has a level of pressure and quantity of water adequate to meet probable fire fighting demands.

(2) Council, at the request of a Fire Chief, will determine the number of functioning fire hydrants and the specifics of the water supply system that are required to meet probable fire fighting demands under subsection (1).

Buildings

31. Fire protection equipment:

- (a) is required for the protection of a building; and
- (b) must meet the standards of the B.C. Building Code and B.C. Fire Code Regulation.

Fire Alarm Maintenance

32. Every owner and every occupier of a building must ensure the fire alarms therein are maintained and tested in accordance with the B.C. Fire Code Regulation.

Emergency Lighting Maintenance

33. Every owner and every occupier of a building must ensure that the emergency lighting, exit lighting and exit signs therein are maintained in operating condition.

Yards and Roadways Maintenance

34. Every owner and every occupier of a building or identified PIB lands must ensure their streets, yards and private roadways provide for fire department access and that such access is maintained so as to be ready for use at all times by a fire fighting vehicle.

Commercial Cooking Equipment

35. Every owner and every occupier of a building that has commercial cooking equipment in it must ensure that the commercial cooking equipment, exhaust and fire protection systems in that building are installed and maintained in conformance with N.F.P.A. 96 - Standard for Ventilation Control and Fire Protection of Commercial Cooking.

Maintenance of Portable Extinguishers

36. Every owner and every occupier of a building must ensure that the selection, inspection, testing and maintenance of portable extinguishers is completed in conformance with N.F.P.A. 10 – Standard for Portable Fire Extinguishers.

Emergency Exits

37. Every owner and every occupier of a building must ensure that the emergency exits in that building are maintained in good repair and free from obstructions.

Exit Door Hardware

38. Every owner and every occupier of a building must ensure that all exit door hardware for that building is maintained in good repair and free to open.

Fire Safety Plans

39. Every owner and every occupier of a building or identified PIB lands must ensure that where required by the B.C. Fire Code Regulation, fire safety plans are provided and maintained for that building or identified PIB lands.

Flammable and Combustible Liquids

40. Every owner and every occupier of a building or identified PIB lands must ensure that all flammable and combustible liquids are stored, handled and transported in, to and from that building or identified PIB lands in accordance with the B.C. Fire Code Regulation.

PART V INSPECTION OF PIB LANDS

Assistance in Inspection

41. Upon the request of an inspector who is carrying out an inspection, every owner and every occupier of a building or identified PIB lands that are being inspected must assist that inspector in the carrying out of the inspection.

Providing Information Related to an Inspection

42. Every owner and every occupier of a building or identified PIB lands must provide all information and render all assistance required by a Fire Chief or any member of the fire department who is conducting an inspection under an agreement made pursuant to this by-law.

43. A person must not purposely withhold or falsify any information required by a Fire Chief or any member of the fire department who is conducting an inspection under an agreement made pursuant to this by-law.

Obstructions

44. A person must not obstruct or interfere with the responsibilities of a Fire Chief or any member of the fire department in an inspection that is conducted under an agreement made pursuant to this by-law.

PART VI FIRE CONTROL

Assistance of Public

45. (1) A Fire Chief or officer in command may require any person at or near any fire to assist in fighting the fire, and in preserving identified PIB lands threatened by any such fire.

(2) A person who fails to comply with the direction of a Fire Chief or officer in command in relation to fighting a fire may be forcibly removed from the scene of such fire by a police officer or fire services personnel.

No Obstruction at Fire

46. (1) A person must not impede, hinder or obstruct the extinguishment of a fire.

(2) A person who fails to comply with subsection (1) may be forcibly removed from the scene of such fire by a police officer or fire services personnel.

Right of Entry Upon identified PIB lands

47. A person must not refuse to allow fire services personnel, fire fighting vehicle or equipment to enter into or upon any building or identified PIB lands from which an alarm of fire has been received, or in or upon which such fire services personnel has reasonable grounds to suspect that a fire exists.

Prevention of Fire Spread

48. A Fire Chief or officer in command may take all necessary measures to prevent and suppress a fire on identified PIB lands, including the demolition of buildings and other structures to prevent the spreading of a fire.

Investigation of Fire Scene

49. A person must not impede, hinder or obstruct any fire services personnel from entering at any time to examine a building, identified PIB lands or motor vehicle where a fire has occurred or any building or identified PIB lands adjoining or near the fire for the purpose of investigating the fire.

Duty to Furnish Information

50. Every owner and every occupier, and every person residing or employed at, a building or identified PIB lands or motor vehicle where a fire occurs, must furnish, at the request of the officer in command, such information he might have relating to a fire or to the identified PIB lands destroyed or damaged by fire.

Breaking Blockade

51. Except the police and members of the fire services personnel no person must enter any burning building, or any part thereof, fire scene or other restricted area without permission of a Fire Chief.

Entry on Adjacent Identified PIB lands

52. Where a Fire Chief or officer in command deems it necessary to enter, pass through or over buildings or identified PIB lands that are adjacent to a fire or emergency, they may do so and they may cause members of the fire services personnel, fire fighting vehicle and equipment to do so.

Restricted Districts

53. (1) Where a Fire Chief considers that human life, or identified PIB lands, is endangered by hazardous fire conditions, the occurrence or spread of a fire in a forest area, or activities within a forest area, the Fire Chief may make an order that the area is deemed to be a restricted district.

(2) Where the Fire Chief makes an order under subsection (1) that order is active until the Fire Chief makes an order that it is no longer active.

(3) Where the Fire Chief makes an order under subsection (1) or (2), Council must cause a notice of restricted district to be posted on:

- (a) the Penticton Indian Band website;
- (b) all buildings within the restricted district; and
- (c) all roads on identified PIB lands that lead to the restricted district.

(4) A notice of restricted district must:

- (a) provide a description of the restricted district;
- (b) state that the Fire Chief has ordered the area to be deemed a restricted district;
- (c) state that a person who enters into or is within one kilometer (1km) of the restricted district, without the written consent of Council or the Fire Chief, is guilty of an offence and on summary conviction is punishable by a fine of up to one thousand dollars (\$1,000) or imprisonment for a term of up to thirty (30) days, or both.

54. A person must not, other than with the written consent of Council or the Fire Chief:

- (a) enter or be within a restricted district; or
- (b) carry on, in, or within one kilometer (1km) of a restricted district.

PART VII OPEN AIR BURNING AND MISCELLANEOUS

Open Burning

55. A person must not light, ignite, start or allow or cause to be lighted, ignited, or started, an outdoor fire of any kind, or for any purpose except as follows:

- (a) the operation of a permanent or portable outdoor barbecue intended for, and used solely for, the preparation of food using briquettes, propane or natural gas;
- (b) the operation of a permanent outdoor fireplace, equipped with a spark arrestor and approved by a Fire Chief; and
- (c) burning of fires for the fire department training exercises; and

(d) the operation of fire pits that are no larger than two meters (2m) in diameter, that are located on lands held under a certificate of possession, and that are being used for personal warmth or the preparation of food.

Council May Authorize Fire

56. Council may authorize a person to ignite or maintain a fire at a time or place that is prohibited by this by-law and may require that person to comply with any condition that Council deems necessary to maintain the public's health and safety and the protection of identified PIB lands.

Commercial Incinerator

57. (1) Where a Fire Chief, determines that a commercial incinerator is likely to create or become a fire hazard due to damage, deterioration, lack of maintenance, construction or location, the Fire Chief may:

- (a) direct the owner of the commercial incinerator to alter, renovate, repair, replace or relocate the incinerator; or
- (b) order that the owner of the commercial incinerator must discontinue its use.

(2) The owner of a commercial incinerator who received an order made under paragraph (1)(b) must comply with that order.

Smoke Opacity Standards

58. (1) A person must not cause or allow the emission of smoke from any solid fuel burning device or commercial incinerator for a period or periods aggregating more than three (3) minutes in any one (1) hour or such capacity as to obscure an observer's view of the background through the smoke to a degree of greater than twenty percent (20%).

(2) Subsection (1) must not apply to:

- (a) smoke emitted during the twenty (20) minute period following the ignition of the fire, or
- (b) smoke emitted during the six (6) minute period after a fire is re-stoked with fuel.

PART VIII FIREWORKS

Restrictions

59. A person must not manufacture, discharge, sell or dispose of any fireworks within identified PIB lands, except with the written approval of Council.

60. A person must not discharge any fireworks from any street on Penticton Indian Band land.

**PART IX
WOOD BURNING APPLIANCES**

61. A person must not burn anything other than wood burning appliance fuels in a wood burning appliance, except with the written approval of Council.

**PART X
DANGEROUS GOODS**

Handling and Transporting Dangerous Goods

62. All dangerous goods must be moved in compliance with the *Transportation of Dangerous Goods Act*, R.S. 1992 c. 34.

63. The storage and handling of all hazardous materials must be done in compliance with the B.C. Fire Code Regulation.

64. When an owner or occupier of a building, identified PIB lands or motor vehicle is aware of an explosion, discharge, emission, escape, or spill of dangerous goods that has or may occur in or on their property, they must report the occurrence or potential occurrence immediately to:

- (a) Council; and
- (b) the fire department.

Fire Department Authority to Intervene in the Management of Dangerous Goods

65. Where a Fire Chief or officer in command is satisfied that a discharge, emission or escape of dangerous goods has occurred and that immediate action is necessary in order to carry out reasonable and emergency measures or to protect the public, that Fire Chief or officer in command may request such measures be taken by any person considered qualified to do so.

**PART XI
SMOKE ALARM INSTALLATION AND MAINTENANCE**

66. In this part;

"building" means any structure used or intended for supporting or sheltering any use of occupancy;

"dwelling unit" means a suite used or intended to be used as a housekeeping unit and usually containing cooking, eating, living, sleeping and sanitary facilities;

"suite" means a single room or series of rooms of complementary use occupied under a single tenancy and includes individual guestrooms in motels, hotels, boarding houses, rooming houses, dormitories and bed and breakfasts;

"institutional occupancy" means the occupancy or use of a building or part thereof by persons who require special care or treatment because of age, mental or physical limitations or who are involuntarily detained or who are detained for penal or correctional purposes or whose liberty is restricted;

"occupancy" means the use or intended use of a building or part thereof for the shelter or support of persons, animals or identified PIB lands;

"occupant" means the resident owner, lessee, licensee or tenant of any building to which any of the provisions of this part apply;

"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.

Owner's Duty to Install Smoke Alarm or Fire Alarm System

67. (1) The owner of a building must ensure that a smoke alarm is installed and maintained in every dwelling unit or suite and in each sleeping room not within a dwelling unit.

(2) Each smoke alarm installed under subsection (1) must:

(a) conform to the Canada Fire Code and specifically CAN/ULC-S531-M87, Standard for smoke alarms;

(b) be installed and maintained in conformance with Canada Fire Code CAN/ULC-S553-M86, Standard for the Installation of smoke alarms; and

(c) if required for motels, hotels, boarding houses, rooming houses, dormitories or a bed and breakfast must in addition be installed in accordance with Section 9.10.18 of the B. C. Building Code.

68. The owner of a building that has institutional occupancy must install a fire alarm system pursuant to the B.C. Building Code.

Occupant's Duty to Test Smoke Alarm

69. (1) An occupant must test the smoke alarm within their dwelling unit, suite or sleeping room at least every six (6) months in compliance with the manufacturer's recommendation to ensure that the smoke alarm is functioning correctly.

(2) If an occupant finds the smoke alarm is not functioning correctly, the occupant, if he is not the owner, must inform the owner immediately of becoming aware of the failure and the owner must forthwith, or as soon as is reasonably practical, repair or replace the smoke alarm.

PART XII INTERNAL FIRE PROTECTION

Renovations or Alterations

70. Where an owner of a multi-residential building over two stories in height that requires a fire alarm system pursuant to the B.C. Building Code, carries out or causes to carry out renovations or alterations to a building where the total cost of the renovation or alteration, together with any other renovation or alteration within a twenty-four (24) month period, exceeds twenty-five percent (25%) of the actual value of the building as determined by the B.C. Assessment Authority, the owner must install an automatic sprinkler system throughout the entire building.

Deficient Fire Separation or Smoke Control

71. The owner of an existing multi-residential building over two stories in height that requires a fire alarm system pursuant to the B. C. Building Code, and that is deficient in fire separations and/or smoke control, must install an automatic sprinkler system throughout the entire building.

72. An owner who must install an automatic sprinkler systems must ensure the installation is in accordance with:

- (a) the N.F.P.A. 13 – Standard for Installation of Sprinkler Systems and
- (b) N.F.P.A. 13(R) - Standard for Installation of Sprinkler Systems and Residential Occupancies Up To and Including Four Stories in Height.

PART XIII REIMBURSEMENT

73. A person who breaches the provisos of this by-law and in doing so causes direct or indirect expense to the Penticton Indian Band must, on demand by the Penticton Indian Band, reimburse the Penticton Indian Band for such expense.

PART XIV ENFORCEMENT

Compliance Order

74. (1) If Council finds that any provision of this by-law has:

- (a) not been complied with; or

(b) been complied with improperly or only in part,

Council may make an order requiring an owner or occupier to take any actions Council determines are necessary to ensure full and proper compliance with this by-law.

75. An order made under this by-law must be in writing and must be served on every owner and every occupier of the building or identified PIB lands in respect of which the order is made or to both.

Failure to Comply

76. Where an owner or occupier fails to comply with any order under this by-law, Council may, at the expense of the owner, remedy the non-compliance.

Service of Compliance Order

77. (1) An order made under the by-law must be served by:

- (a) delivering the order in person, or causing the order to be delivered in person, to the person to whom it is directed;
- (b) mailing the order by registered mail to the address of the registered owner; or
- (c) if the person to whom the order is directed cannot be found, is not known or refuses to accept service of the order, by posting a copy of the order in a conspicuous place on the building or identified PIB lands to which the order applies.

(2) If an order has been posted in accordance with paragraph (1)(c), a person must not remove, deface or destroy the order.

PART XV PENALTY

78. (1) A person commits an offence who violates any provision of this by-law or any order made under this by-law and must be liable, on conviction, to:

- (a) a penalty not exceeding one thousand dollars (\$1,000.00);
- (b) imprisonment for a term not exceeding thirty (30) days for each offence; or
- (c) the penalties in both of paragraphs (1)(a) and (1)(b).

(2) In the case of a continuing offence, each day during which an offence under this by-law continues is a new offence.

**PART XVI
ENACTMENT**

Coming Into Force and Term

79. This by-law comes into force on the date it is passed by Council.

THIS BY-LAW is hereby passed at a duly convened meeting of Council on the 31st day of March, 2015.

Voting in favor of this by-law are the following members of Council:



Chief Jonathan Kruger



Councillor Timothy Lezard



Councillor Inez Pierre



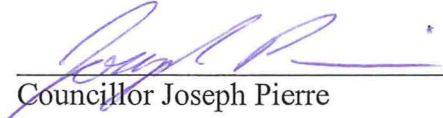
Councillor Dolly Kruger



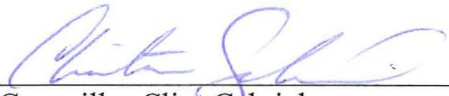
Councillor Clint George



Councillor Kevin Gabriel



Councillor Joseph Pierre



Councillor Clint Gabriel

The quorum of Council is five (5) members.