

**DISTRICT OF PORT HARDY
BYLAW NO. 15-2012**

**A Bylaw to Provide Regulations
For The Control of Burning and Smoke**

CONSOLIDATED

As Amended

Consolidation: 27th day of March 2019

Amending Bylaws:

Bylaw 1020-2014 (Amend text and Schedules)

Bylaw 1093-2019 (Amend category B fires and control of fires)



**DISTRICT OF PORT HARDY
BYLAW NO. 15-2012**

**A Bylaw to Provide Regulations
For The Control of Burning and Smoke**

GIVEN THAT Council deems it expedient and desirable to provide such regulations with respect to regulating outdoor fires;

THEREFORE the Council of the District of Port Hardy in open meeting assembled enacts as follows:

1. Title

This bylaw may be cited as the "Open Burning and Smoke Control Bylaw No. 15-2012".

2. Definitions

In this bylaw, unless the context otherwise requires:

Air Curtain Burner is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber or earthen pit or trench made to function as the Fire Box with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain.

Animal Organic Waste means solid organic waste material of animal origin and includes flesh, carcasses, offal, hides, faeces and feathers.

Approval means acceptance as satisfactory to the District of Port Hardy.

Beach Fire means a fire lit in a non-combustible environment below the high tide line for the purpose of warmth or cooking.

Category A Open Fire means an open fire that burns piled material no larger than 1 m in height and 1 m in diameter but does not include a campfire or recreational fire.

Category B
Definition Amended
Bylaw 1093-2019

Category B Open Fire means 1-2 concurrently burning piles, at least 10 metres between piles, in which burned material is piled larger than 1 metre by 1 metre in diameter but not greater than 2 metres high and/or 3 metres in width and may include land clearing waste.

Ceremonial Fire Deleted
Bylaw 1020-2014

Council means the Municipal Council of the District of Port Hardy.

Debris means distributed or undistributed vegetative matter targeted for management or disposal by open burning.

Demolition Waste means any material resulting from or produced by the complete or partial destruction or tearing down of any structure.

District means the District of Port Hardy.

Domestic Incinerator means any metal or masonry container equipped with a tight fitting wire screen lid of a mesh not greater than one centimetre (3/8") to restrict any sparks or flying debris.

Fire Chief means the head of the Fire Department as appointed by the Council of the District of Port Hardy or his designate.

Land Clearing Waste means brush, stumps, slash and similar materials resulting from or produced by the clearing of land.

Noxious Material includes tires, plastics, rubber products, drywall, demolition waste, construction waste, paint, special waste, animal organic waste, biomedical waste, tar, asphaltic products, battery boxes, plastic materials, waste petroleum products, all of which may produce heavy black smoke or noxious odours.

Officer means the Fire Chief or his designate, the Bylaw Enforcement Officer or his designate, a Province of British Columbia Conservation Officer or a member of the RCMP.

Open Burning means the combustion of material without control of the combustion or air and without a stack or chimney to vent the emitted products of combustion to the atmosphere but does not include charcoal fires contained within barbecues for the purpose of cooking food.

Open Fire is any fire that is not vented through a structure that has a flue incorporated in a building.

Order means any order, decision, requirement or direction given by an Officer.

Permit means a document issued pursuant to the provisions of this bylaw authorizing a person to undertake open air burning under the conditions specified in the document.

Recreational Fire includes a campfire and means the burning of wood for recreational purposes in a permanent outdoor fireplace, barbecue or fire pit not larger than 60 centimetres in diameter that is designed and constructed to confine the fire and is suitable for such a purpose.

Smoke means the gases, particulate matter and products of combustion emitted into the atmosphere when debris is open burned.

Supervisor means the person who is directly supervising the open burning.

<i>Ventilation Index Deleted Bylaw 1020-2014</i>
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3. Open Air Burning

3.1 Except as provided in Section 3.3, no person shall light, ignite or start or allow or cause to be lighted, ignited or started a fire without making application for and obtaining a permit from the District.

3.2 A person who has obtained a permit under this bylaw may carry out open burning of

debris on a parcel of land if:

- a) the debris is open burned on the parcel of land from which it originated;
- b) the substances which normally emit dense smoke or noxious odours and those prohibited materials set out in Schedule "A" are not included with debris that is open burned;
- c) every reasonable alternative for reducing or recycling debris has been pursued to minimize the amount of debris to be open burned; and
- d) the open burning is conducted in accordance with the conditions set out in the *Environmental Management Act, the Wildfire Act* and regulations thereto.

3.3 A burning permit is not required for a recreational fire or a beach fire as defined herein.

*Sec 3.3 New
Wording
Bylaw 1020-2014*

3.4 All Provincial fire bans effective within the Coastal Fire Centre, shall apply within the District boundaries. If a fire ban is imposed in any portion of the District it shall be deemed to be imposed within the entire District.

3.5 Category A Open Fires and Category B Open Fires will only be permitted during the burning period which is October 1st in one calendar year until April 30th in the next calendar year, and only if there is not a Provincial fire ban in effect for the Coastal Fire Centre.

*Sec 3.5 New
Wording
Bylaw 1020-2014*

3.6 Category A Open Fires are permitted throughout the District.

*Sec 3.6 New Wording
Bylaw 1020-2014*

3.7 Category B Open Fires are only permitted on those properties / lands shown filled in black on the following Schedules, which are attached to and form part of this Bylaw:

- Schedule "B1" – Category B Open Fire Zones – Northwest Port Hardy
- Schedule "B2" – Category B Open Fire Zones – Southwest Port Hardy
- Schedule "B3" – Category B Open Fire Zones – North Central Port Hardy
- Schedule "B4" – Category B Open Fire Zones – South Central Port Hardy
- Schedule "B5" – Category B Open Fire Zones – East Port Hardy

*Sec 3.7 New Wording
Bylaw 1020-2014*

4. Distance From Buildings and Facilities During Open Burning

4.1 The open burning of debris in a Category A Open Fire must be carried out at least 4.6 m from all property lines and buildings and at least 1.5 m from any grass, shrubs, trees, wooden fence or other combustible material.

*Sec 4.1 Wording
Amended
Bylaw 1020-2014*

4.2 The open burning of debris in a Category B Open Fire must be carried out at least 100 m from neighbouring residences and businesses and 500 m from schools in session, hospitals and facilities used for continuing care as defined under the *Continuing Care Act*.

*Sec 4.2 Wording
Amended
Bylaw 1020-2014*

5. Control of Fires

5.1 Category A Open Fires shall only be permitted between 8:00 a.m. and sunset of the same day.

*Sec 5.1 New Wording
Bylaw 1020-2014*

5.2 Category B Open Fires shall be for a maximum duration of three (3)

*Sec 5.2 New Wording
Bylaw 1020-2014*

consecutive days and there must be a minimum of fifteen (15) days between each Category B Open Fire.

*Sec 5.3 New Wording
Bylaw 1093-2019*

- 5.3 A maximum of five (5) Category B Open fire permits are permitted on any one property during the burning period described in section 3.5 of the bylaw.
- 5.4 A person who has been issued a permit under this bylaw must ensure that the fire is continuously supervised and controlled by a person who is at least nineteen (19) years old.
- 5.5 The supervisor must have emergency equipment that is immediately available and must be capable of controlling or putting out the fire to prevent danger, damage and injury to persons or property.
- 5.6 The District may, at its discretion, require that Air Curtain Burners be used for burning land clearing waste.

6. Burning of Garbage and Noxious Material

*Sec 6.1 New Wording
Bylaw 1020-2014*

- 6.1 The burning of prohibited materials is prohibited.
- 6.2 Prohibited materials are listed in Schedule "A" Prohibited Material attached to and forming part of this Bylaw.

*Sec 6.2 New Wording
Bylaw 1020-2014*

7. Inspection and Orders

- 7.1 An Officer may:
- a) enter at all reasonable times on any property that is subject to the requirements or regulations of this bylaw, to ascertain whether the regulations in this Bylaw or directions made under this Bylaw are in compliance;
 - b) make orders directing the owners or occupiers of property or the supervisor to bring the fire into compliance with this bylaw;
 - c) prevent material not properly prepared (i.e. dried) from being added to the fire;
 - d) call on Conservation Officers if a person is burning waste in contravention of the *Waste Management Act*; or
 - e) order the supervisor to immediately put the fire out.
- 7.2 No person shall obstruct or prevent an Officer from conducting an inspection under this bylaw.

8. Favourable Weather for Smoke Dispersion

- 8.1 Unless otherwise directed by an Officer, Category A Open Fires and Category B Open Fires must not occur unless the forecast prescribed by the Province of British Columbia's Venting Index for Northern Vancouver Island is good.

*Sec 8.1 New Wording
Bylaw 1020-2014*

- 8.2 Due care and consideration must be employed so that smoke from open burning of debris does not pose a hazard at airports or on District highways by significantly reducing visibility.

9. Issuance of Burning Permits

- 9.1 A written permit shall be in the form prescribed from time to time by the District and shall be valid for specified days during the period designated under Section 5 of this bylaw. A separate permit is required for each new burning permit application.
- 9.2 The District may withhold or cancel any permit issued where, in its opinion, the igniting of a fire may create a hazard or nuisance to persons or property.
- 9.3 If at any time an Officer, on account of the existence of hazardous conditions, inclusive of meteorological or ambient air quality conditions, deems it advisable, he may suspend for such time as it is necessary, any right to burn granted pursuant to this bylaw, including all or any permits issued pursuant to this bylaw, or he may attach to any or all such permits such conditions and restrictions as deemed proper.
- 9.4 All permits issued pursuant to this bylaw shall be subject to such conditions, restrictions and provisions as the District may consider necessary and expedient to incorporate therein.
- 9.5 Fees associated with the issuance of burning permits by the District shall be paid as prescribed by the District's User Rates and Fees Bylaw. *Sec 9.5 New Wording
Bylaw 1020-2014*
- 9.6 If the applicant for a permit is not the owner of the property to which the application relates, the applicant shall provide the property owner's written authorization to conduct burning on the property to the District, before the District will issue a permit." *Sec 9.6 New Section
Bylaw 1020-2014*

10. Exceptions

The following are excluded from the regulations, provisions and penalties provided for under this bylaw, unless expressly banned by the Provincial Government within the Coastal Fire Centre:

- a) charcoal, wood or propane fires contained within a barbecue, hibachi or fire pit having a surface area not greater than one (1) square meter and covered by a grate for the purpose of cooking food;
- b) charcoal, wood or propane fires contained within an Outdoor Fireplace having a maximum diameter of one (1) meter, a maximum width of one (1) metre, a maximum depth of one (1) metre and a maximum height including chimney, of 1.8 meters;
- c) beach fires;
- d) recreational fires;
- e) fires started and maintained by the Port Hardy Volunteer Fire Department for training, education or other fire department purposes; and
- f) fires used or recommended by authorities having jurisdiction to manage ecosystems for purposes of silviculture, forest fuel management, fire hazard reduction, wildlife enhancement and the use of fire as a means of fire control.

11. Utility Transmission Operations

A person carrying out an industrial activity that is a utility transmission operation, as defined by the Wildfire Regulation, must meet the requirements of that regulation.

12. Cost Recovery

Every owner/occupant of a property who starts or allows to be started, any outdoor fire or open burning is responsible for such fire. If, in the opinion of an Officer, the fire presents a hazard, has escaped or threatens to escape from the owner's control or is prohibited under the terms of this bylaw, the Fire Department may be summoned to control or extinguish the fire. The owner shall be liable for all costs and expenses incurred by the Fire Department or the District to control or extinguish the fire. The costs and expenses, including penalties, may be recovered from the owner together with any administration costs in like manner as municipal taxes.

13. Liabilities for Damages

This Bylaw shall not be construed to hold the District nor its authorized agent or agents responsible for any damage to persons or property by reason of:

- a) inspections authorized by this Bylaw, or
- b) the failure to carry out an inspection, or
- c) a permit issued as herein provided.

14. Scope and Penalties

14.1 In the event of there being any conflict between the terms and provisions of this Bylaw and the terms and provisions of the *Fire Services Act* or the *Waste Management Act* and regulations thereunder or other provincial acts or regulations, the terms and provisions of the said acts and regulations shall prevail.

14.2 Every person who violates any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw or who neglects or refrains from doing anything required to be done by any of the provisions of this bylaw shall be deemed to be guilty of an infraction hereof and shall be liable to the penalties imposed. Every continuing infraction shall be deemed to be a new and separate offence for each day during which the same shall continue.

14.3 Any person found guilty of an infraction of any of the provisions of this bylaw shall, upon summary conviction, be liable to a minimum fine of Five Hundred Dollars (\$500), which shall be recoverable and enforceable upon summary conviction in the manner provided by the *Offence Act*.

15. Inclusivity

In this bylaw, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.

16. Reference to Acts

Any reference in this bylaw to provincial or federal legislation refers to the Act as it may be amended or replaced from time to time and to all regulations enacted thereto.

17. Severability

If a court of competent jurisdiction declares any portion of this bylaw invalid, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

18. Schedules

The following schedules are attached to and form part of this Bylaw:

Schedule "A" Prohibited Material
Schedule "B1" – Category B Open Fire Zones – Northwest Port Hardy
Schedule "B2" – Category B Open Fire Zones – Southwest Port Hardy
Schedule "B3" – Category B Open Fire Zones – North Central Port Hardy
Schedule "B4" – Category B Open Fire Zones – South Central Port Hardy
Schedule "B5" – Category B Open Fire Zones – East Port Hardy

<p><i>Sec 18 New Schedules B1-B5 Bylaw 1020-2014</i></p>
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19. Enactment

Open Burning and Smoke Control Bylaw No. 06-2010 is hereby repealed.

Read a first time on the 14th day of August, 2012.

Read a second time on the 14th day of August, 2012.

Read a third time on the 14th day of August, 2012.

Adopted on the 11th day of September, 2012.

Original signed by:

Director of Corporate Services

Mayor

Certified to be a true copy of Open
Burning and Smoke Control Bylaw No. 15-2012

Director of Corporate Services

SCHEDULE "A"

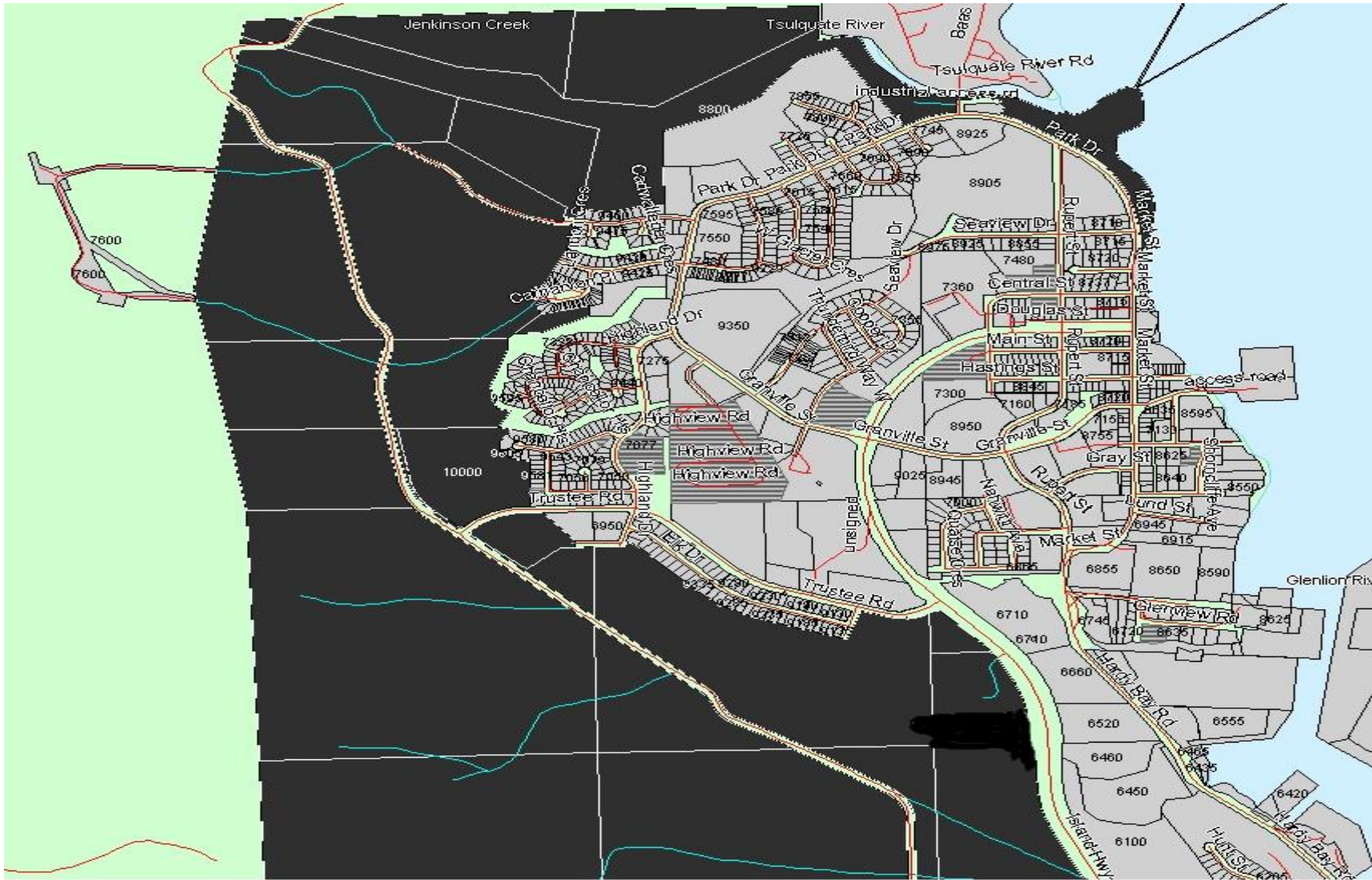
PROHIBITED MATERIAL

The following material must not be included with debris that is open burned:

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

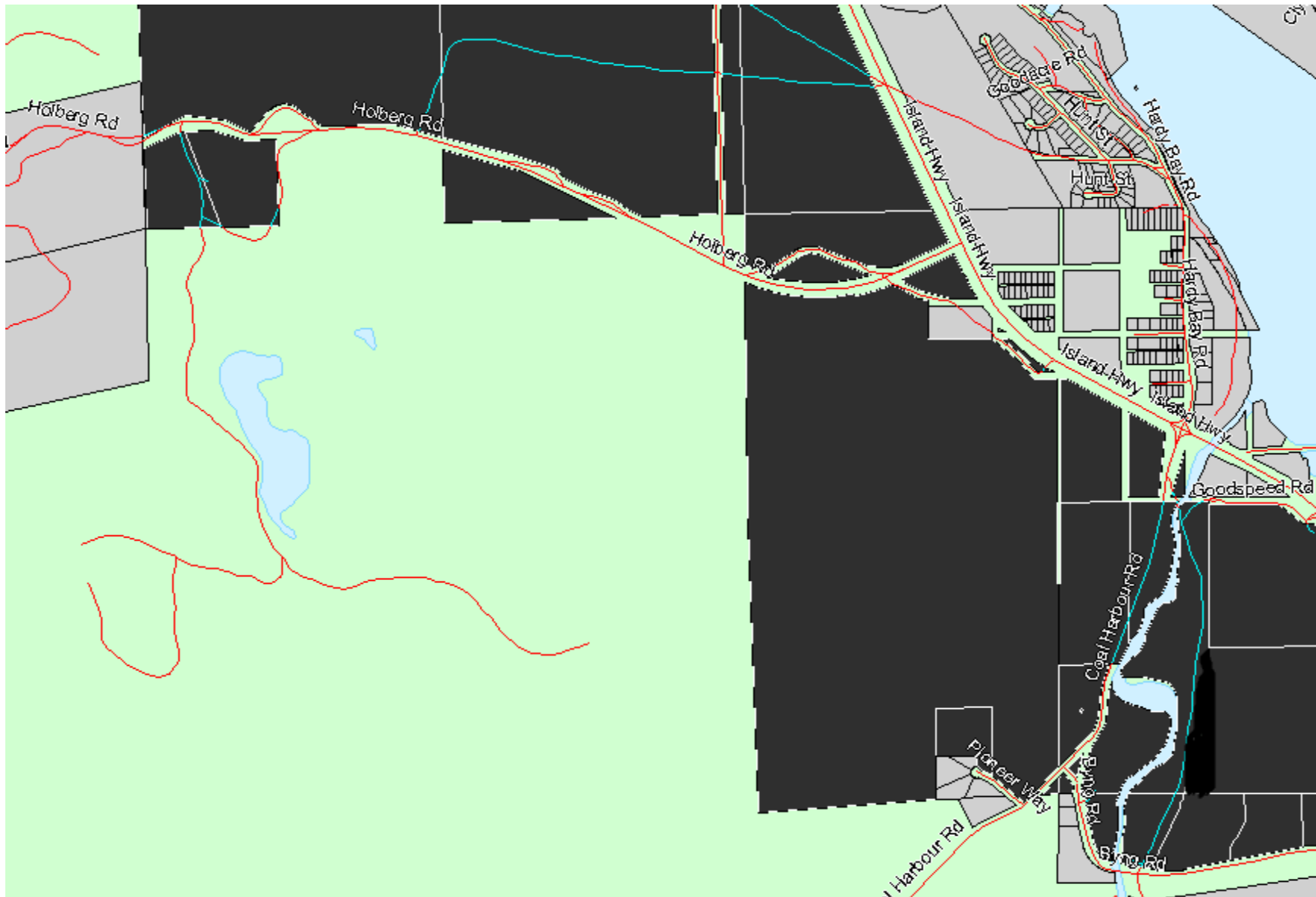
Any Prohibited Material as defined in the Open Burning Smoke Control Regulation

SCHEDULE "B1" – CATEGORY B OPEN FIRE ZONES – NORTHWEST PORT HARDY



Category B Open Fires permitted on properties filled in black subject to the regulations of Open Burning and Smoke Control Bylaw No. 15-2012.


SCHEDULE "B2" – CATEGORY B OPEN FIRE ZONES – SOUTHWEST PORT HARDY



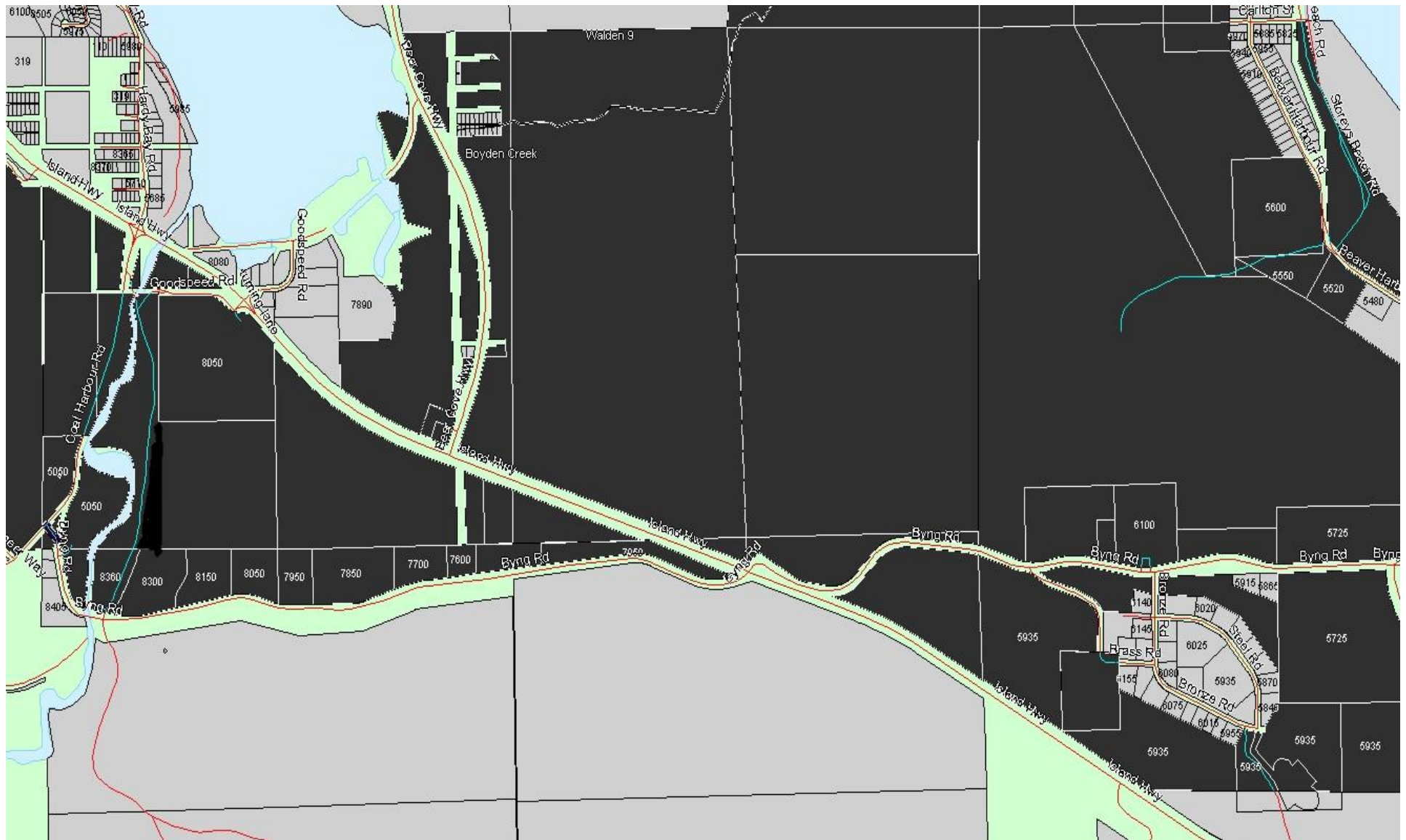
Category B Open Fires permitted on properties filled in black subject to the regulations of Open Burning and Smoke Control Bylaw No. 15-2012.

SCHEDULE "B3" – CATEGORY B OPEN FIRE ZONES – NORTH CENTRAL PORT HARDY



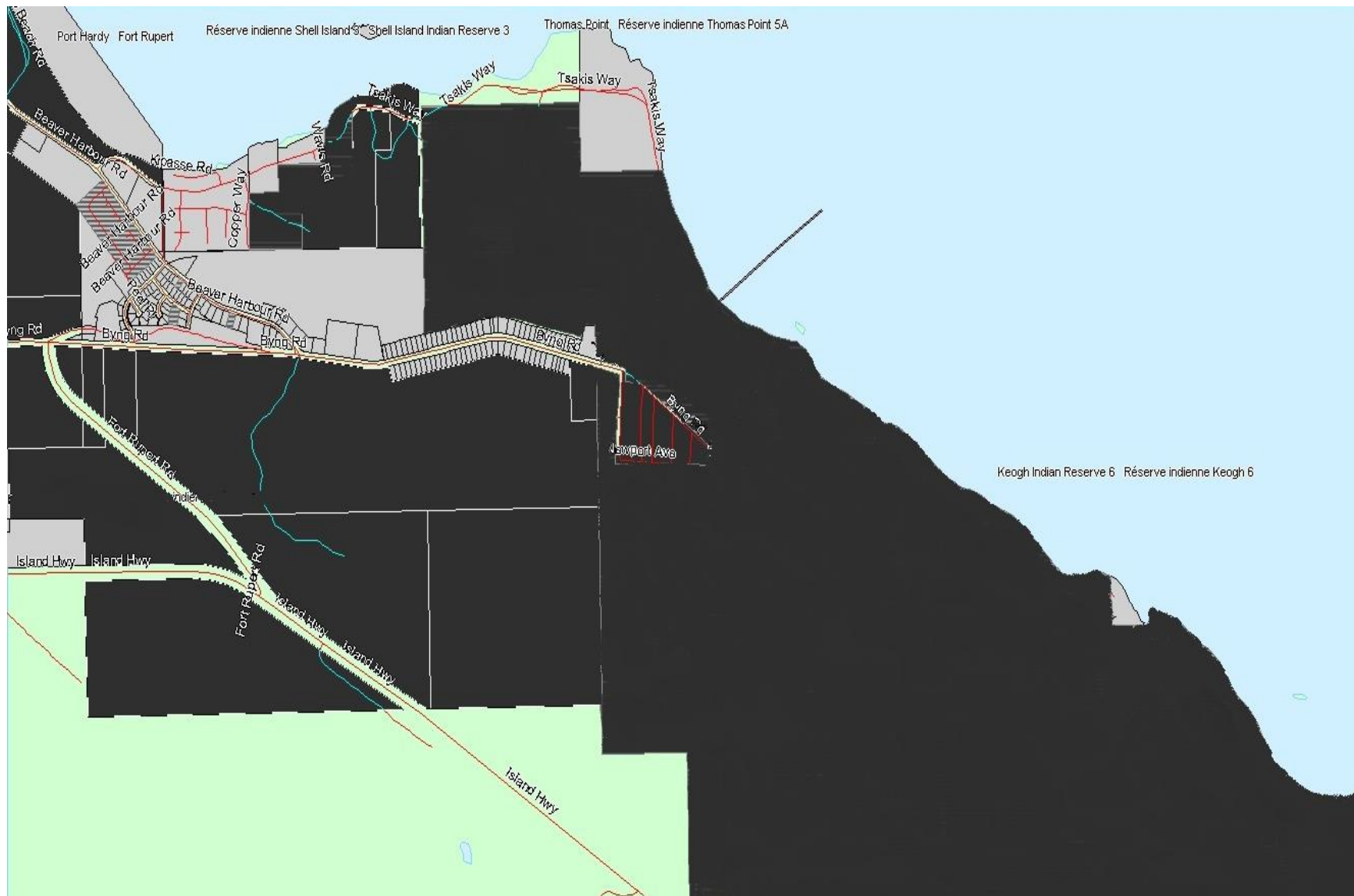
 Category B Open Fires permitted on properties filled in black subject to the regulations of Open Burning and Smoke Control Bylaw No. 15-2012.


SCHEDULE "B4" – CATEGORY B OPEN FIRE ZONES – SOUTH CENTRAL PORT HARDY



Category B Open Fires permitted on properties filled in black subject to the regulations of Open Burning and Smoke Control Bylaw No. 15-2012.

SCHEDULE "B5" – CATEGORY B OPEN FIRE ZONES – EAST PORT HARDY



 Category B Open Fires permitted on properties filled in black subject to the regulations of Open Burning and Smoke Control Bylaw No. 15-2012