

*BC Fire Services Act*

Regular System of Fire Inspections

Considerations for Development

2015/01/12

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## Acknowledgements

This guide was developed by the Fire Inspection and Prevention (FIPI) LAFC Inspection Working Group Sub-Group in collaboration with the Office of the Fire Commissioner. Members of the sub-group were:

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The Office of the Fire Commissioner (OFC) is the senior fire authority in the province of British Columbia with respect to fire safety and prevention. The OFC has reviewed the guide and considers it to be a valuable tool for use in developing a regular system of inspection in accordance with the *Fire Service Act*.

### Notice:

This document has no legal effect. It is intended to be a guide for developing a regular system of inspections. It does not replace any legislation pertaining to regulatory oversight of public buildings. Adoption of any of this document's content the local government is purely voluntary.

### Abstract

The provision for fire prevention inspections contained within the *Fire Service Act (FSA)* [RSBC 1996, Chapter 144] is required for municipalities and optional for all other forms of local government.

*FSA* s. 26 states that "A municipal council must provide for a "regular system of inspection" of hotels and public buildings in the municipality." The terms "regular," "system," and "inspection" are not defined in the *FSA*. Consequently, municipalities have some latitude to develop a regular system of inspection that is within their means while giving consideration that their system will meet a reasonable standard of care before the courts.

Another consideration comes from local businesses, who typically demand a level playing field from regulators, in other words, "inspect all or none." They also demand a level of regulator competency so that businesses are not saddled with unnecessary costs. Where an inspection process is implemented, it should be regular, fair, adequate, defensible, and the frequency justified.

This guideline is intended to assist municipalities, who are obligated to have a regular system of inspections, and other forms of local government who may choose to develop one.

By following a reasonable process to develop a regular system of inspection, the municipality or other local government may avoid (1) having someone look to the courts for redress against them and (2), in that process, having the courts determine:

- a) what the standard of care ought to be, and
- b) if that standard of care was breached.

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# REGULAR SYSTEM OF MUNICIPAL FIRE INSPECTIONS CONSIDERATIONS FOR DEVELOPMENT

## 1] ISSUE:

For all forms of local governments in BC, the provision of fire fighting services is optional. It is different for the provision of fire prevention inspections, which is required for municipalities while optional for all other forms of local government. Notwithstanding, other forms of local government can benefit from reviewing this discussion paper.

The *Fire Services Act (FSA)* s. 26 states that “A municipal council must provide for a “regular system of inspection” of hotels and public buildings<sup>i</sup> in the municipality.” This requirement is repeated in *FSA* s. 36 (3) with the addition that, for Part 2 of the *FSA*, Escape from Fire, the inspection must be conducted by an officer<sup>ii</sup> of buildings in the municipality.

Also, *FSA* s. 48 (1) states that “Nothing in the *FSA* prevents a municipality from making bylaws relating to a matter within the scope of the *FSA*, but only so far as they are not repugnant to the *FSA* or the regulations. This means, for example, that bylaws cannot set a lower level of life safety than what is regulated by the *FSA* and BC Fire Code regulation.

Further, s. 48 (2) states that “Nothing in the *FSA* absolves a municipality from its duty to enforce a law or regulation relating to a matter under the *FSA*. The BC Fire Code (the Code) is a regulation of the *FSA*, which must therefore be enforced by municipalities.

The terms “regular,” “system,” and “inspection” and the phrase “regular system of inspection” are not defined in the *FSA*. Many municipalities are unsure how to devise an acceptable regular system of inspection or how to enforce a law or regulation relating to a matter under the *FSA*. There is very little guidance available to assist them.

This document will assist any form of local government that is required or chooses to undertake fire prevention inspections. For ease of reading, in the remainder of the document, where ever possible, instead of referring to “municipalities”, the term “local government<sup>iii</sup>” will be used and its fire prevention inspectorate staff will be referred to as the “local government fire inspector (LGFI).”

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## 2] PURPOSE:

***Disclaimer: Local governments are not bound by any process including this document when developing their regular system of inspection. This document is therefore designed to identify things a local government can consider when developing its regular system of inspection.***

This document will suggest a risk management approach, while also giving consideration to a local government's available resources, as a means of providing a regular system of inspection of public buildings. It will also provide examples of possible systems to "jump start" a local government's brainstorming session to devise its regular system of inspection.

## 3] BACKGROUND:

The authority and mandate to perform fire inspections of fire hazards, gain entry and issue orders to correct infractions are given in the *FSA* [RSBC 1996, Chapter 144].

There is room for improvement with respect to regular systems of inspection and the training and experience of those persons authorized to conduct such inspections. For example, not all Local Assistants to the Fire Commissioner (LAFCs)<sup>iv</sup> and Local government fire inspectors (LGFIs) conduct inspections and, between the local governments, inspections are conducted inconsistently. Whether in rural or urban BC, there is no consistent system for ensuring LAFCs and others who undertake inspections have the necessary training and experience to be effective. These resource and expertise deficiencies are amplified with respect to conducting Code inspections at high-hazard industrial operations.

History has shown the standard of care to which a fire department is held for fire suppression will vary depending on the circumstances. In determining liability, comparisons between departments with similar circumstances and resources will likely be used to determine the level of care expected by the courts. Some suggest the same will be true for fire prevention. The implication is that, to limit liability, each local government should develop an appropriate fire inspection program for its resources and circumstances.

Case law suggests that the local governments need to understand their duties under the *FSA* to provide a regular system of inspection. The local government should be able to justify (1) its regular system of inspection; (2) that its inspectorate is reasonably competent; and (3) that there is a reasonable program to review and, as necessary, modify the inspection program.

**Local governments are encouraged to discuss with their legal counsel the subject of standard of care.**

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## 4] DISCUSSION:

### 4.1 CREATING THE MEANS TO FULFILL THE DUTY TO HAVE A REGULAR SYSTEM OF INSPECTION

The *FSA* does not define a regular system of inspection nor the mechanism by which local governments shall enforce a law or regulation relating to a matter under the *FSA*. For local governments, a regulatory approach such as this can be best managed through a bylaw.

A guide has been developed – The Regulatory Best Practices Guide<sup>y</sup> – to encourage the best possible use of local government regulatory authority. The guide’s development steering committee was led by the Local Government Department of BC Provincial Government’s Ministry of Community, Aboriginal and Women’s Services. It includes, for example, key elements of good regulatory practice and tips on the process for developing good regulatory schemes.

The National Fire Protection Association (NFPA) is proposing a new standard with an anticipated mid-2015 release, NFPA Standard 1730, Standard on Organization and Deployment of Fire Prevention Inspection and Code Enforcement, Plan Review, Investigation, and Public Education Operations to the Public. Prevention activities have been found to reduce the number of fires in a community and are embraced by many world-class fire service organizations because of the results achieved. This standard addresses the activities of fire prevention including fire inspections, fire investigations and public education.

The standard also specifies the elements of a community risk assessment. This is a process to assist in the development and implementation of a community risk reduction plan and program to reduce, mitigate or eliminate a community's fire risks. It does not specify level-of-service indicators for staffing such as the number of inspections per inspector. Instead, it provides guidance in an annex on a method for determining the number of full-time equivalents needed for prevention programs and activities that the community decides to undertake in response to a community risk assessment.

The Canadian Association of Fire Chiefs has had a working group on this subject.

Fire Chief Len Garis and Dr. Joseph Clare have published three papers through the University of the Fraser Valley’s Centre for Public Safety & Criminal Justice Research:

1. Examining “Regular” Fire-Safety Inspections, March 2012
2. The Non-Random Nature of Fire Safety Inspection Compliance, June 2013
3. A Dynamic Risk-Based Framework for Redesigning the Scheduling of Fire Safety Inspections, August 2014

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**Readers of this document are encouraged to review the Regulatory Best Practices Guide, the (proposed) NFPA Standard 1730, and the Garis/Clare papers.**

For consideration, in concert with the Regulatory Best Practices Guide and (proposed) NFPA Standard 1730, the following is offered.

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#### 4.1.1 AUTHORITY TO CREATE A FIRE SERVICES BYLAW

Local governments can make bylaws relating to a matter within the scope of the *FSA* or its regulation and code so far as they are not repugnant to the *FSA* or the regulation – *FSA* s. 48 (1). This means, for example, that bylaws cannot set a lower level of life safety than what is regulated by the *FSA* and BC Fire Code regulation.

Municipalities can create those bylaws using their authority under the *Community Charter* while the Regional Districts can make bylaws using their authority under the *Local Government Act*.

For example, the *Community Charter*, section 8 (3) states: “A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following: ... (g) the health, safety or protection of persons or property in relation to matters referred to in section 63 [protection of persons and property]; ...” Section 63 states: “The authority of a council under section 8 (3) (g) [spheres of authority - - protection of persons and property] may be exercised in relation to the following: ... (c) any matter within the scope of the *Fire Services Act*; ...” This would include s. 26 and s. 36(3) of the Act.

Some have suggested that the powers in s. 8 of the *Community Charter* empower a municipality to involve the building owners and/or occupiers in an inspection scheme. A system of self-inspections does not likely satisfy the *FSA* obligation placed on municipalities to inspect public buildings. Notwithstanding, the benefit of self-inspections is that they could be used to reduce the local government’s inspection frequency for that property and building(s). Refer to this document’s Appendix B, Building Owner Self-inspection, for a discussion on this topic. **Readers are recommended to discuss, with their legal counsel, the appropriateness of self-inspections bylaws, if contemplated by the local government.**

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#### 4.1.2 BYLAW REFERENCE TO THE BC FIRE CODE OR SOME COMPONENT PARTS

The Code is a regulation of the *Fire Services Act*. The production of this document occurred while the 2012 BC Fire Code was the current addition based on the model 2010 National Fire Code of Canada.

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The National Fire Code of Canada is revised from time to time, which precipitates revisions to provincial fire codes like the BC Fire Code. A bylaw should be aware of, and account for the periodic amendment of the BC Fire Code.

Many BC municipalities already have fire services bylaws. Also, many of these bylaws include other items associated with fire services, not just fire code compliance monitoring. Examples include:

- Fire Investigations
- Fire Prevention Programs (e.g., public awareness campaigns, consultative services – e.g., understanding and providing effective fire safety plans, education programs – e.g., schools, seniors, community education)

Local governments can review other local government bylaws and consult with them as part of the local government’s development process. This document will remain focused on providing guidance to fulfill the duty to have a regular system of inspection.

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#### 4.1.3 BYLAW ADOPTION OF AUTHORITY TO INSPECT PREMISES

The *Fire Services Act*, in two sections, identifies who municipalities can authorize, in addition to the local assistant, to exercise within the municipality some or all of the powers under sections 21 to 23.

1. Section 26 (2), under the heading ‘Municipal duty to inspect hotels and public buildings’, in Part 1 of the *FSA* – Investigation, Prevention and Suppression of Fires, states a municipal council may authorize persons, in addition to the local assistant, to exercise within the municipality some or all of the powers under section 21 to 23.
2. Section 36 of the *FSA* under the heading ‘Inspections of buildings’, states that the provisions of Part 2 of the *FSA* – Escape from Fire, are part of a regular system of inspection to be conducted by an officer of buildings in the municipality.

The term officer is defined for Part 2 in s. 36 (1), to mean an LAFC or the chief police officer and any other person authorized by the municipal council to exercise some or all of a local assistant’s powers under this Part.

The fact that the *Fire Service Act* allows “persons” to be selected to conduct inspections suggests local governments can use 3<sup>rd</sup> parties, not just local government employees, to conduct those inspections.

This document will use the term ‘Local Government Fire Inspector (LGFIs)’ to mean a local government appointed officer (i.e., a local government employee and/or contracted 3rd party). These LGFIs can conduct local government fire code bylaw inspections and, if the bylaw

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authorizes, may issue local government tickets (e.g., a fine) for non-compliance in accordance with the local government's bylaw ticketing policies and procedures.

There are certain duties outlined in the *FSA* that must be performed by an LAFC; for example, investigation of fires. Depending on the type of fire prevention inspection, an LAFC (i.e., under the authority of the *FSA*), or an LGFI (i.e., under a local government bylaw) may conduct the inspection. For example:

- Regular System of Inspection – LGFI
- Special Event Permits – LGFI
- Response to complaint or Request for Inspection (including requests for alternative solutions<sup>vi</sup>)
  - Submitted to Office of Fire Commissioner – LAFC
  - Submitted to Local Government – LAFC or LGFI
- Eminent Hazard
  - Submitted to Office of Fire Commissioner – LAFC
  - Submitted to Local Government – LGFI (or LAFC to invoke the powers of s. 25 of the *Fire Services Act*)
- Change in Occupancy – LGFI

If the inspection is not a normal, planned inspection, i.e., not part of the Regular System of Inspection, then the LAFC or LGFI has the choice to restrict the inspection to the issue or event that initiated the inspection or take advantage of the site visit to conduct a full fire prevention inspection.

This document is primarily concerned with a Regular System of Inspection. A local government could structure its bylaw to address other types of inspection, provided the requirements are not, as previously stated, repugnant to the *Fire Services Act* or its regulations.

The authority to inspect premises should be clearly stated in the bylaw, including, for example, who can inspect, when entry can occur, if and when consent is required, and the purpose of the inspection.

The type of inspection can dictate when entry can occur:

- Regular system of inspection – Consider providing LGFIs with the LAFC inspection powers outlined in the Code Regulation s. 3<sup>vii</sup>, Inspections.
- Request for inspection (including requests for alternative solutions) – Consider providing LGFIs with the LAFC inspection powers outlined in the Code Regulation s. 3, Inspections.
- Special event permits, change in occupancy inspections, and request for inspections – Consider providing LGFIs with the LAFC inspection powers outlined in the Code Regulation s. 3, Inspections.

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- Complaints or “When believe advisable, without complaint” – Consider providing LGFIs with the LAFC inspection powers outlined in the Code Regulation s. 3, Inspections and augmented by the inspection powers outlined in the *FSA* s. 21<sup>viii</sup>.
- ‘Escape from fire’ complaints – Consider providing LGFIs with the LAFC inspection powers outlined in the Code Regulation s. 3, Inspections and augmented by the inspection powers outlined in the *FSA* s. 36 (2).

Since the *FSA* and the BC Fire Code Regulation specify the LAFC powers to inspect, bylaws should not further constrain the LGFIs. This means that some inspections may be unannounced and without formal consent. For example, for a reported blocked emergency exit in an occupied assembly occupancy, like a theatre, which, if accurate, would be a dangerous ‘escape from fire’ egress violation, the inspection would be unannounced and without consent.

Alternatively, a local government could combine all the various powers into one complete set of entry powers for all forms of inspection or some other combination that did not further constrain LGFIs relative to the *FSA* and the BC Fire Code Regulation.

For the purpose of the inspection, refer to this document’s section 4.2.2., Nature of Inspections, for some examples of inspection activities.

The local government’s inspection policy and procedures may include a progressive process to address violations that would escalate to enforcement if other persuasive means<sup>ix</sup> were not effective. The only enforcement tool available to local governments and their LGFIs would be to issue municipal tickets or similar violation documents under their bylaw, if so included in the bylaw. The LGFI may also be an LAFC, who as an LAFC can also issue orders under the *FSA*. Care should be taken to ensure that the powers exercised under bylaw are not mixed with those under the *FSA* (e.g., LGFI enters under bylaw provision then tries to enforce pursuant to *FSA* – provincial law). Any inspection by an LGFI can be referred to an LAFC in accordance with *FSA* s. 21.

The provisions to allow **municipal governments** to create an inspection bylaw are located in s.16 of the *Community Charter*.

The process is more involved for a **Regional District**. First, in order to operate a service, such as a fire prevention service, the Regional Government Board must first adopt an establishing bylaw for the service in accordance with *Local Government Act (LGA)*, Division 4.1 – Establishing Bylaws. That process requires, amongst other requirements, assent/approval of the electors (*LGA* Part 24 s. 801). Once the support is obtained, the fire prevention service bylaw is enacted, and may include inspections to determine whether the bylaw is being followed (*LGA Part 6 s.268*).

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#### 4.1.4 BYLAW ADOPTION OF AN ENFORCEMENT MECHANISM

In the study report, *The Non-Random Nature of Fire Safety Inspection Compliance*, Garis and Clare note that research suggests that between 10 and 20 percent of owners will not comply until they have considered the costs and benefits of doing so. It means that, for many of those intentionally non-complying with stated rules and regulations, being caught for those violations will have little effect if there is no penalty.

This is especially true for catastrophic risks that materialize seldom but which have the potential to cause widespread damage and/or extensive loss of life. Willful non-compliers have clear incentives to downplay risk that have very low and unknown probabilities and hope that it never happens to them. Unfortunately, Canadian communities experience catastrophic fire and explosion events each year suggesting that hope is often not enough. To improve compliance a reasonable enforcement mechanism should be developed to be applied to non-compliance on a case-by-case basis.

**4.1.4.1 – MUNICIPAL GOVERNMENTS:** The bylaw enforcement part of the Community Charter contains the authority to impose municipal tickets, take civil enforcement proceedings and obtain entry warrants.

Section 194 of the Community Charter contains the authority to impose fees.

**4.1.4.2 – REGIONAL DISTRICTS:** Enforcement capabilities, such as ticketing, civil enforcement, entry warrants, etc., can be included in the fire prevention bylaw. The authority to add enforcement capabilities flows to the Regional District from the Community Charter when the Regional District has established a fire service. If a particular enforcement authority granted to municipalities under the Community Charter did not flow through to a Regional District, then the Regional District may seek such a power from the Lieutenant Governor in Council (*LGA Part 24 s.799*).

**Local governments are encouraged to discuss with their legal counsel the subject of creating bylaws and corresponding enforcement mechanisms.**

## 4.2 DESIGNING A REGULAR SYSTEM OF INSPECTION

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### 4.2.1 DISCUSSION

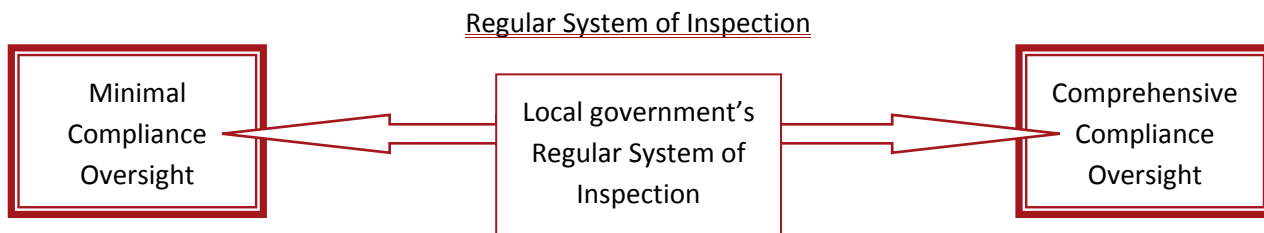
If a local government is required or chooses to establish a system of regular inspection, there is no obligation on local governments to use their own staff to conduct the inspections. However, at minimum, some form of oversight is recommended. Refer to the definition of LGFI earlier in this document.

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There are some key points to keep in mind when determining the inspection program:

- I. BC Fire Code, Division C, Part 2 (Administrative Provisions), Sentence 2.2.1.1 (1) states “Unless otherwise specified, the **owner or the owner’s authorized agent** (hereinafter referred to as “the responsible party”) shall be responsible for carrying out the provisions of this Code<sup>xi</sup>.”
- II. If challenged in a court of law, in the absence of direction in the *FSA*, the courts may define the reasonable “standard of care” it would expect from a local government’s regular system of inspection.

There are many aspects to consider when developing the regular system of inspection, including one or more of the following – nature of the inspections (i.e., local government’s desired level of service), available resources, inspection frequency, who conducts the inspections, and the qualifications of those who conduct the inspections.



Visually, a local government’s regular system of inspection will fall somewhere on the continuum illustrated above, for either its entire system or various components of its system.

In the study report, *Examining “Regular” Fire-Safety Inspections*<sup>xii</sup>, Garis and Clare refer to fire risk as either static or dynamic indicators of risk:

**“Static** risk factors are those factors that have been demonstrated to relate to risk potential ... the non-changeable aspects of the property that influence fire likelihood, such as construction material, zoning density, geographic location in the city, age of building, etc.

**Dynamic** risk factors are those factors that have a demonstrated association with risk, but are amenable to alteration ... the types of risk factors that can alter over time and can be influenced by inspection and improved safety practices ... examples include the level of diligence [e.g., commitment to maintenance, safety, and compliance to the BC Fire Code] demonstrated by the property’s responsible person, recent compliance history, building use, etc.”

All the applicable static and dynamic risk factors then need to be monitored in an ongoing consistent manner, and the outcome of this assessment can drive the frequency of building inspections.

For example, a local government system could be based, in part, on the occupancy’s fire risk category, where “minimal oversight” is carried out for low hazard occupancy, and a higher level of oversight for

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moderate risk hazard occupancies, with the highest level of oversight for high hazard occupancies. Oversight refers to the frequency and nature of the inspection.

It could be further sub-divided by the previous level of compliance and cooperation achieved with each building owner or authorized agent. The local government could have some building owners and occupiers (e.g., low hazard occupancies) self-report their inspections between LGFI inspections; have LGFIs carry out inspections in other buildings; and have contract 3<sup>rd</sup> party individuals inspect some buildings (e.g., high hazard occupancies).

There are actually few limitations to how a local government can structure its regular system of inspection to meet its regulatory obligations so long as it meets a reasonable standard of care for its circumstances as explained in the Background section of this document.

Part of the process of developing a regular system of inspection could include researching other comparable local governments' systems for ideas. Alternatively, a local government could partner with comparable local governments and develop a common 'regular system of inspection.' The parameters for identifying comparable local governments could include size, risk load/industry mix, and available resources/fire department makeup.

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#### 4.2.2 NATURE OF INSPECTIONS

A key consideration is to understand what is an inspection and what does a good inspection system achieve. According to Jacobs & Associates<sup>xiii</sup>, Canadian Courts have consistently upheld the wide powers of inspection provided to regulators, including the power to:

- Enter a workplace at any time during business hours without a warrant or court order
- Require the production of documents
- Speak with employees and management
- Observe the operation of machinery
- Take photographs
- Take samples

Note: Some of these powers (e.g., take samples) are not expressly given in the FSA. The local government's bylaw could identify the powers of inspection given to their officers to conduct thorough inspections. Readers can review for ideas, in addition to those listed above, the British Columbia Fire Code Regulation, section 3, Inspections and the Fire Services Act, section 21, Inspections of Fire Hazards. These sections have been reproduced in this document's Endnotes vii and viii. Other potential powers include:

- bring along any equipment or materials required for the inspection
- inspect works, materials, products, tools, equipment, machines, devices or other things at the place

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- take samples and conduct tests of materials, products, tools, equipment, machines, devices or other things being produced, used or found at the place, including tests in which a sample is destroyed
- require that a property, a building, equipment or anything else or part of a property, a building, equipment, or anything else not be disturbed for a reasonable period of time
- require that a tool, equipment, machine, device or other thing or process be operated or set in motion or that a system or procedure be carried out
- attend a relevant training program of that business
- exercise other powers that may be necessary or incidental to the carrying out of the inspector's functions and duties

And that a good inspection system:

- Maximizes compliance with clear and legitimate government regulations by detecting and deterring non-compliance consistently and fairly,
- Minimizes uncertainty and regulatory risk for businesses by operating transparently and under the rule of law,
- Fights corruption by reducing the opportunity for abuse of discretionary powers, and
- Minimizes costs to businesses and optimizes costs to government by using resources efficiently to target the highest risks.

Succinctly stated, a regulator's inspection is the act of a monitoring authority administering an official review of various criteria (such as documents, facilities, records, and any other assets) that are deemed by the authority to be related to the inspection. Inspections are used for the purpose of determining if a body is complying with regulations to protect the public. The inspector examines against the criteria and talks with involved individuals. A report and evaluation follows such visits.

In this case, the purpose of a regular system of inspection is to determine if the responsible party is complying with the Code and to encourage a higher level of fire and life safety. This document's goal is to identify an approach to develop a "regular system of inspection" for consideration by local governments based on their resource levels and some related examples.

Where the Code requires a public building to have a Fire Safety Plan (FSP) then the Code provisions could be monitored through a properly developed, implemented and maintained FSP. Refer to this document's Appendix A, Fire Safety Plans, for more details.

With that in mind, it might be appropriate to consider one of, or a combination of, or a derivative of three potential options of inspection criteria from which to select and design a regular system of inspection<sup>xiv</sup> (Also, refer to this document's Appendix C, which goes into each of these options in more detail):

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<b>Inspection Option A:</b>	<b>The local government’s regular system of inspection does not include self-inspections. Refer to Appendix C for more details.</b>
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On an annual basis, the following occurs:

1. Businesses, requiring fire safety plans (FSPs), review their plans and submit a letter noting the plan was reviewed and (1) no changes were required or (2) changes were required and an update plan accompanies the letter.
2. Local government identifies and inspects, using its LGFIs, the businesses due for a local government inspection based on its inspection frequency model.

To fulfill this role, the local government may want to have its LGFIs trained in the Office of the Fire Commissioner’s LAFC Introductory Course and its Basic Fundamentals for Inspections course. Refer to this document Section 4, LAFC, Fire Prevention Officer, and 3rd Party Contractor Training, and Appendix C – LAFC & LGFI Inspection Basics, Option A, for more details.

For this option, the local government could receive an annual report from its staff. The annual report could include an account that all requisite FSPs have been received voluntarily or through enforcement action. The report would detail the learning from the FSPs to determine if changes to the inspection system are warranted.

The annual report would also summarize the local government fire inspection findings for the year including how many were completed, whether or not the target number was met, and issues arising from the inspections such as the state of fire code compliance, including fire safety plans where required, and the level of cooperation of building owners, their agents or building occupiers with the local fire department.

The frequency of these basic site visit inspections can be determined following the guidance provided in this document’s section 2 – Frequency of Inspections.

<b>Inspection Option B:</b>	<b>Use of self-inspections to reduce local government’s inspection frequency. Refer to Appendix C for details.</b>
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On an annual basis, the following occurs:

1. Businesses, requiring fire safety plans (FSPs), review their plans and submit a letter noting the plan was reviewed noting that (1) no changes were required, or (2) changes were required and an update plan accompanies the letter.
2. Businesses requiring self-inspections submit a ‘verification of compliance’ (VOC) letter and/or a self-inspection report. (Note: Local Government could, in its bylaw, require a specific template be used)

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3. Local government identifies and inspects, using its LGFIs, the businesses due for a local government inspection based on its inspection frequency model.

To fulfill this role, the local government may want to have its LGFIs trained in the Office of the Fire Commissioner’s LAFC Introductory Course and its Basic Fundamentals for Inspections course. Refer to this document Section 4, LAFC, Fire Prevention Officer, and 3rd Party Contractor Training, and Appendix C – LAFC & LGFI Inspection Basics, Option B, for more details.

For this basic system of inspection, the local government could receive an annual report from its staff. The annual report could be an account that all requisite VOCs have been received voluntarily or through enforcement action. The report would detail the learning from the verification inspections to determine if changes to the inspection system are warranted. A similar summary could be provided for the review of FSPs.

The annual report would also summarize the local government fire inspection findings for the year including how many were completed, whether or not the target number was met, and issues arising from the inspections such as the state of fire code compliance, including fire safety plans where required, and the level of cooperation of building owners, their agents or building occupiers with the local fire department.

<b>Inspection Option C:</b>	<b>The local government’s regular system of inspection supplements Option A or Option B with a <u>detailed</u> site visit by an LGFI. Refer to Appendix C for more details</b>
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On an annual basis, the following occurs:

1. Businesses, requiring fire safety plans (FSPs), review their plans and submit a letter noting the plan was reviewed and (1) no changes were required or (2) changes were required and an update plan accompanies the letter.
2. If Option C is built on Option B, businesses requiring self-inspections submit a ‘verification of compliance’ (VOC) letter and/or a self-inspection report. (Note: Local Government could, in its bylaw, require a specific template be used)
3. Local government identifies and inspects, using its LGFIs, the businesses due for a local government inspection based on its inspection frequency model.

To fulfill this role, the local government may want to have its LGFIs also trained in specific topics related to the higher hazard occupancies that may exist in its jurisdiction. Refer to this document Section 4, LAFC, Fire Prevention Officer, and 3rd Party Contractor Training, and Appendix C – LAFC & LGFI Inspection Basics, Option C, for more details.

For this option, the local government could receive an annual report from its staff. The annual report could include an account that all requisite FSPs have been received voluntarily or through

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enforcement action. The report would detail the learning from the FSPs to determine if changes to the inspection system are warranted.

The annual report would also summarize the local government fire inspection findings for the year including how many were completed, whether or not the target number was met, and issues arising from the inspections such as the state of fire code compliance, including fire safety plans where required, and the level of cooperation of building owners, their agents or building occupiers with the local fire department.

The report could also identify

- The degree of fire and explosion hazards that exist within the jurisdiction.
- The level of preparedness to respond to a fire in any building.
- The overall fire and explosion risk to the community.

The frequency of these detailed site visit inspections can be determined following the guidance provided in this document's section 2 – Frequency of Inspections.

**Important Note:**

The ideas in this section are provided to help stimulate the local government's regular system of inspection development discussion. Local governments are not bound by these ideas and can create hybrids of these options, for its entire system of inspection, or for sub-parts of its system, or something totally different. For example, a local government could "mix & match" the depth of the inspection (i.e., Options 1, 2 or 3) based on occupancy risk levels, cooperation from the building owner or responsible party, etc.

In devising their regular system of inspection, local governments should ensure they would meet a reasonable standard of care, based on their resources and circumstances.

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#### 4.2.3 FREQUENCY OF INSPECTIONS

Each local government can apply a risk management process to determine its inspection frequency based on the number of inspections it can reasonably expect to conduct each year. This approach will also give consideration to local jurisdictional needs, desired level of service and available resources including:

- The Code has a major occupancy classifications system that can be used in combination with some general risk categorizing of low, medium or high. Refer to this document's Appendix D, which has reproduced those classifications into a table.
- The comparative list of occupancies, with assigned risk of low, medium or high based on general risk, can be modified based on other (local) considerations, including a quantitative risk assessment.

- Some degree of equity should be present in the frequency of inspection of the same type of occupancy. However, age, condition, maintenance, and degree of cooperation of the owner/occupants can also be used in determining the frequency of inspection.
  - Age of a building on its own is not a determining factor but could be considered along with the overall condition of a building regardless of occupancy. Generally, older buildings (prior to 1975) have less built-in safety features and in many cases lend themselves to fire hazards and thereby require more frequent inspections.
  - With respect to building owner cooperation, in the case of a cooperative individual, it could be expected that maintenance of safety systems (fire alarm and illumination, etc.) would be done on a regular basis. Housekeeping or the elimination of combustibles would seldom be a problem with a cooperative person. Conversely, if an owner or responsible party constantly has to be reminded or worse yet, ordered or ticketed to get the required work or housekeeping completed, it may be necessary to increase the frequency of inspection or visitations to that building.
- Consideration can also be given to reducing the LGFI's inspection frequency by instituting a building owner or occupier self-inspection program. Refer to Appendix B for more details.
- An inspection frequency should be designed so that it can be met with established staffing levels; in fact, some spare capacity should be left just to ensure that a scheduled inspection is not overlooked.
- In reviewing staff time, consider the other duties LGFIs are expected to perform, e.g., public education, FSPs plan reviews, fire investigations, other by-law enforcement.
- Preplanning for growth and development within the jurisdiction can also be considered.

In determining an inspection frequency, given consideration to the guidance provided in the Garis/Clare paper, 'A Dynamic Risk-Based Framework for Redesigning the Scheduling of Fire Safety Inspections,'<sup>xv</sup> is recommended.

**Important note:**

To be able to select or defend the frequency of inspection for individual buildings, it would be advisable to record the initial frequency selected and reasons why (e.g., parameters upon which the decision was made). If and when changes to that frequency occur, the reason for the change ought to be recorded as well.

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**Important Note:**

The ideas in this section are provided to help stimulate the local government's regular system of inspection development discussion. Local governments are not bound by these ideas and can create hybrids of these options, for its entire system of inspection, or for sub-parts of its system, or something totally different. For example, a local government could "mix & match" based on their identified criteria (e.g., type of occupancy, previous compliance achieved, cooperation of building owner or authorized agent, age and state of repair of building, available resources).

Local businesses typically demand a level playing field from regulators, in other words, "inspect all or none." They also demand a level of regulator competency so that businesses are not saddled with unnecessary costs. Where an inspection process is implemented, it should be regular, fair, adequate, defensible, and the frequency justified.

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#### 4.2.4 CONSIDERATIONS WHEN SELECTING LGFIS

Many jurisdictions delegate their regular system of inspection obligation to their fire department. Based on the jurisdiction's identified regular system of inspection, the jurisdiction may:

- i. Hire fire prevention staff with the appropriate knowledge and experience.
- ii. Train current fire prevention staff to the desired level of knowledge and experience.
- iii. Train local building inspectors, bylaw officials, or other staff to perform fire inspections.
- iv. Contract out the inspection program to a qualified third party.
- v. Contract out only a portion of the inspections (e.g., complex inspections) to a qualified third party.

Regardless of who is inspecting, these individuals are not expected to be technical experts in the ever increasing technical complexity of modern industrial operations. They should be knowledgeable in:

- i. The relevant sections of the *Fire Services Act*
- ii. The BC Fire Code Regulation and the BC Fire Code
- iii. The Local Government's related bylaws and enforcement mechanism
- iv. The basics of conducting a Code compliance inspection

They would benefit from having the ability to research information (e.g., standards – e.g., CSA, NFPA, CAN-UL, manufacturer's operating instructions, Material Safety Data Sheets) necessary to fulfill their obligations and/or be able to locate persons with the required knowledge.

They would benefit from having access to online or hard copies of the *Fire Services Act*, the BC Fire Code Regulation, the BC Fire Code, the BC Building Code and code-referenced National Fire Protection Association (NFPA) and Canadian Standards Association (CSA) standards, etc. Smaller communities could pool resources to obtain and share a complete set of appropriate reference material.

The depth and breadth of their inspection ability will expand based on their background (i.e., knowledge and experience) in Fire Prevention, Fire Code Consulting, Inspection Procedures, Planning or Fire Protection Engineering, increases.

**Important Note:**

The ideas in this section are provided to help stimulate the local government's regular system of inspection development discussion. Local governments are not bound by these ideas and can create hybrids of these options, for its entire system of inspection, or for sub-parts of its system, or something totally different. For example, a local government could "mix & match" who inspect what, where the "who" could be the jurisdiction's staff or contracted 3<sup>rd</sup> party, based in part on the level of knowledge required to complete a competent inspection.

**Important Note:**

Local government can have 3rd parties conduct inspections but only LAFCs can (1) perform other legislated duties from the *Fire Services Act*, for example, fire investigations and (2) issue provincial orders for non-compliance with the *FSA* and Code.

L AFC are appointed in accordance with the *Fire Services Act*.

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#### 4.2.5 L AFC, FIRE PREVENTION OFFICER, AND 3<sup>RD</sup> PARTY CONTRACTOR TRAINING:

Local governments have many options with respect to who can become LGFIs and conduct its inspections:

- Its own staff
  - Building inspectors (for document reviews and basic inspections)
  - Fire Chiefs and/or Fire Prevention Officers
  - LAFCs
- 3<sup>rd</sup> Party Contractors (Local consultation and legal review should be undertaken to determine the extent to which the 3<sup>rd</sup> party can exercise the full authority of the L AFC)

When it comes to performance of inspection duties, there is always a concern that the local government might be liable for mistakes made by their inspectors. The LGFIs should be competent to fulfill their assigned inspection role. With respect to LGFIs mistakes, some have suggested that the courts will make a distinction between unreasonable mistakes breaching the standard of care and "mere errors in judgement," which any reasonable professional might have made and therefore which do not breach care.<sup>xvi</sup>

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So regardless of who is inspecting, a local government should give careful consideration to the knowledge and experience of its own staff or 3rd party contractor in relations to the expectation of its regular system of inspection and address any deficiencies through training, hiring or other means.

At this time, the Office of the Fire Commissioner offers the following training for LAFCs:

1. L AFC Introductory Course (5 hours online e-learning course)
2. Basic Fundamentals for Inspections (5 hours online e-learning course)
3. Reviewing Fire Safety Plans (8 hours online e-learning course)
4. Combustible Dust Fire & Explosion Hazard Recognition (3 hour online e-learning course)

Other courses are available from education and vocational institutions as well as private consultants.

In the table that follows, for illustrative purposes, the knowledge level of the person inspecting, for each inspection option, might be achieved by the identified education course(s).

<b>Inspection Option</b>	<b>Suggested Minimum L AFC or Fire Prevention Officer Training</b>
Option A:	L AFC Introductory Course Reviewing Fire Safety Plans Basic Fundamentals for Inspections
Option B:	L AFC Introductory Course Reviewing Fire Safety Plans, Basic Fundamentals for Inspections
Option C:	L AFC Introductory Course L AFC Reviewing Fire Safety Plans, L AFC Basic Fundamentals for Inspections, Hazard specific training, e.g., Combustible Dust Fire & Explosion Hazard Recognition, Other Courses from education and vocational institutions or private consultants.

#### 4.3 CONCLUDING COMMENT:

The regular system of inspection referenced in the *FSA* is required by municipalities and optional by all other forms of local government.

The objective of this discussion paper is to show that there are options for local governments when considering a system of regular inspections suitable for its purposes and to meet the expected standard of care.

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Local governments should undertake their own critical analysis and make a conscious choice (based on policy review, consideration of capacity, resources, etc.) in determining the type of inspection service they provide that will best achieve the objectives of community safety.

By following a reasonable process to develop a regular system of inspection, the municipality or other local government may avoid (1) having someone look to the courts for redress against them and (2) the courts determining:

- a) what the standard of ought to be, and
- b) if that standard of care was breached.

This document did not discuss a reasonable program to review and, as necessary, modify its inspection program to ensure it continues to meet the local government's needs and judicial expectations. Although not discussed in this document, a review/evaluation program ought to be developed and implemented to compliment the development of a regular system of inspection.

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## APPENDIX A – FIRE SAFETY PLANS (FSP)

### 1. Scope

Fire safety is an important responsibility for everyone. The consequences of poor fire safety practices and a lack of emergency planning are especially serious in properties where processes or quantities of stored materials could pose a serious threat, not only to the business and its employees, but also to the community and environment in the event of an emergency.

It is the owner or the owner's authorized agent who is responsible for the preparation, implementation, maintenance of a Fire Safety Plan (FSP), and ensuring that it is correct to meet the 3 objectives listed in the next section.

### 2. What is an FSP?

The FSP identifies the manner in which the building owner or operator will achieve three objectives:

1. Fire Prevention – To prevent the occurrence of fire through the control of fire hazards and the proper maintenance of the building safety systems and facilities.
2. Occupant Safety – To establish a systematic method for safe and orderly evacuation of the building in the case of fire or other emergency.
3. Fire Control and Extinguishment – To establish procedures that will maximize the probability of controlling and extinguishing a fire in the safest and most efficient manner.

From a business perspective, these objectives are sensible. The cost of a fire will typically be higher than the cost of producing, implementing and maintaining a FSP.

The FSP not only reflects the unique characteristics of the building and any hazardous processes and operations it contains, but also considers the available firefighting infrastructure. For this reason, the FSP must be prepared by the owner or owner's authorized agent in cooperation with the local fire department and other applicable regulatory authorities, such as WorkSafeBC and the BC Safety Authority.

### 3. Who requires an FSP?

The Code, Division B – Part 2, Article 2.8.2.1, requires, that buildings or areas described in Article 2.8.1.1., have a fire safety plan conforming to Division B – Part 2, Section 2.8. This means:

- a) every *building* containing an *assembly, care, treatment or detention occupancy*,
- b) every *building* required by the British Columbia Building Code to have a fire alarm system,
- c) demolition and construction sites regulated under Section 5.6.,



d) storage areas required to have a fire safety plan in conformance with Articles 3.2.2.5. and 3.3.2.9.,

e) areas where *flammable liquids* or *combustible liquids* are stored or handled, in conformance with Article 4.1.5.5., and

f) areas where hazardous processes or operations occur, in conformance with Article 5.1.5.1.

For business owners and operators, the main FSP requirement determinant will be whether or not the BC Building Code requires their building to have a fire alarm system. It will be important for those carrying out the local government's regular system of inspection to be familiar with that BC Building Code fire alarm system requirement.

The Code, sentence 2.8.2.1.(1), requires the fire safety plan be prepared in cooperation with the fire department and other applicable regulatory authorities.

#### **4. Documenting a Fire Safety Plan**

The Code does not regulate what the FSP should look like, just what the minimum content should be. There are a number of available templates in which to document a fire safety plan.

A local government may want to specify a specific format or template to follow. It is to everyone's benefit if all fire plans within a local government uses the local government's preferred format. The local fire department refer to and use FSPs from all the public buildings within their jurisdiction. In an emergency, familiarity with the FSP format makes it easier and quicker for firefighters to find the information needed to respond appropriately to the emergency.

Building owners should appreciate, if the emergency is at their facility, every minute not spent by fire fighters looking for critical information can mean their attention is focused on dealing with the emergency.

The Fire Prevention Officers' Association of BC has posted on their website a 3-Part Fire Safety Plan Document Guide that any local government can adopt as is or modified to suit local preferences. The Guide provides very good instructions to assist building owners develop and implement an effective, compliant Fire Safety Plan.

## APPENDIX B – BUILDING OWNER SELF-INSPECTIONS<sup>1</sup>

Typically, local government conducts periodic fire prevention inspections utilizing their own staff or qualified 3<sup>rd</sup> parties. The benefit of this type of program is that a trained inspector can go through the occupancy and identify problems. The weaknesses of the program include the inspector not being familiar with all the details of the occupancy, particularly a large, complex, high hazard occupancy, and the time allotted to conduct the inspection may not allow time to gain that familiarity. A potential consequence is that one or more fire risks may go un-noticed at the time of the inspection, or in the intervals between inspections. Also, business owners, who rely on an LGFI inspecting for risks, may not take ownership for risk awareness on a regular basis.

Self-inspections have deficiencies as well. Most will not be as good as LGFI inspections, notwithstanding the LGFI familiarity concerns, but are preferred to no inspections at all, or to having a constant backlog of outstanding inspections due to staff shortages. Also, self-inspection can result in fire departments losing first-hand knowledge of the occupancy.

For municipalities, self-inspection can augment but not completely replace LGFI inspections due to the requirement for a ‘regular system of inspection’. Before choosing to adopt a self-inspection program, it is important to understand the pros and cons.

Pros	Cons
<b>1) Inspections Quantity</b>	
<ol style="list-style-type: none"> <li>1. More annual fire safety inspections are expected to be conducted in the community (i.e., combination LGFI &amp; self-inspections)</li> </ol>	<ol style="list-style-type: none"> <li>1. Local Government accountability will require an auditing/evaluation process of the self-inspection program</li> <li>2. Administration of auditing/evaluation process can be challenging if not properly organized</li> </ol>
<b>2) Inspection Quality</b>	
<ol style="list-style-type: none"> <li>1. For motivated occupancies, violations may be identified and corrected sooner since some violations may not “slide” until the fire inspector comes – safer daily working environments and on-site corrections to risk as they develop.</li> </ol>	<ol style="list-style-type: none"> <li>1. Building owners/occupiers likely to under report instances of non-compliance</li> <li>2. Building Owners/occupiers may follow checklists provided by local government but may not seek out and ensure unusual items have not materialized</li> <li>3. Potential for building owners/occupiers to fail to spot fire risks to their businesses and property</li> </ol>

<sup>1</sup> Reference: Are Self-inspections a Viable Option for an Effective Fire Prevention Program in Oak Park, Illinois? By Thomas D. Ebsen, Oak Park Fire Department, Oak Park, Illinois, October, 2006

<b>3) Occupancy Fire Safety Knowledge</b>	
<ol style="list-style-type: none"> <li>1. May improve building owner/occupier knowledge and implementation of fire prevention, life safety, and fire control and extinguishment measures (e.g., fire risk reduction skills) and less 'run-of-the-mill' violations; this is especially true for the persons doing the inspections</li> <li>2. Improve fire safety knowledge may motivate improved fire safety "lifestyle" within the building</li> <li>3. Skills learned may spill over into their homes "where the real fire hazards lie"</li> </ol>	<ol style="list-style-type: none"> <li>1. Building owners/occupiers may lack sufficient knowledge to interpret codes and identify practical applications</li> <li>2. Building owners/occupiers no longer receive free advice and tips that the LGFI likely provided during inspections</li> </ol>
<b>4) Cost:</b>	
<ol style="list-style-type: none"> <li>1. Reduce local government human resources expenditures (i.e., LGFI time and expenses)</li> <li>2. Depending on occupancies allowed to self-inspect, there may little, if any, additional cost to the occupancy since the time to perform the inspection and the costs to correct deficiencies will not change since they participate in the local government fire prevention inspections</li> </ol>	<ol style="list-style-type: none"> <li>1. Additional cost to business may be required for training of occupancy staff or use of 3<sup>rd</sup> party qualified person in lieu of occupancy staff</li> <li>2. Additional cost to local government to administer the self-inspection program. <u>Note:</u> Cost could be reduced by sharing some or all development and administration costs between two or more local governments.</li> <li>3. If under-reporting is significant, then LGFIs may need to follow-up on many self-inspection reports such that inspections, by LGFIs only, might be more effective and efficient and represent less combined total cost to the local government and the community building owners involved</li> </ol>

Notwithstanding the pros and cons, there is likely to be strong support from occupancies able to self-inspect.

Examples of common inspection flaws for small businesses:

- Report that business has fire extinguishers yet not conducting regular, annual servicing
- Report that business had emergency and exit lighting yet they were not functioning properly and batteries, for emergency backup power, were not be changed.

A local government's self-inspection bylaw ought to be designed to take advantage of the pros and neutralize, as much as possible, the cons. Considerations when developing a self-inspection bylaw could include:

1. Developing a qualifying standard to allow fire prevention self-inspection. For example,

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- a. Identify occupancy types eligible for self-inspections. For example:
    - i. Those occupancies not required to develop, implement and maintain a current Fire Safety Plan. Typically includes low fire risk commercial occupancies with low combustible material load, low occupancy load, no hazardous processes and no requirement for a FSP, e.g., professional offices and small businesses, small retail stores and personal service shops.
    - ii. Additional occupancies can be added to the list in item (i) using an objective risk identification matrix.
  - b. Identify business eligibility criteria to conduct self-inspections, such as:
    - i. New businesses not eligible to self-inspect until local government satisfied the business has demonstrated it can remain compliant (e.g., no noted deficiencies for “y” years)
    - ii. Eligibility requires demonstration that occupancy staff can conduct the inspection or a 3<sup>rd</sup> party qualified person has been retained. The ‘Verification of Compliance’ (VOC) should identify who conducted the inspection along with proof of qualification.
    - iii. Criteria to (1) suspend eligibility (e.g., failing one or more spot or joint inspections) and (2) regain eligibility (e.g., local government inspections has no noted deficiencies for “w” years)
2. Developing a self-inspection program. For example,
    - a. Develop a toolkit consisting of an inspection checklist complete with instructions
    - b. Develop a calendar for inspection submissions to either receive all inspections within the same month or stagger the submissions to balance the local government workload over the full year.
    - c. Consider requiring the participation of a worker in the inspection
    - d. Develop an online submission process instead of a mail-in process
    - e. Identify LGFI responses to submitted self-inspection reports. For example,
      - i. The LGFIs could have the discretion to accept the self-inspection report based on whether or not the content provides a reasonable assurance of compliance giving due considerations to such factors as the fire hazard rating of the building and/or property, the reputation and compliance history of the person submitting the report and a review of accompanying supporting documentation or information (if any). The self-inspection report could be rejected until further information is received or the LGFI could chose to conduct an inspection.
  3. Incorporate an evaluation of the self-inspections in the LGFI’s planned fire prevention inspections for accountability purposes and to determine if current frequency is still appropriate.
  4. Between the LGFI planned inspections, the LGFI ought to have the power to:
    - a. Conduct random, unannounced ‘spot’ inspections, and/or have LGFI participate in building owner’s fire prevention inspection, both of which would allow the LGFI the opportunity to become familiar with the structure, to observe operations at the business and evaluate the success of the self-inspection program.
    - b. Allow the LGFIs to conduct an inspection if the submitted self-inspection identifies issues.

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5. The self-inspection program could be supported by the following:
  - a. Analysis of the self-inspection outcome data and subjective feedback from the business community
  - b. Use of an annual inspection fee to new businesses that fail to meet eligibility requirements, within a reasonable timeframe and until they can meet eligibility.
  - c. Use of stiffer fines and penalties for self-inspection businesses not living up to their responsibilities and/or charge business an inspection fee so long as LGFI is required to conduct inspections and/or require the business to retain the services of a qualified 3<sup>rd</sup> party for a period of time. Consider these sanctions after other persuasive means to encourage compliance have failed.

To fulfill this role, the local government may want to have its LGFIs trained in the Office of the Fire Commissioner's LAFC Introductory Course. Refer to Section 4, LAFC, Fire Prevention Officer, and 3rd Party Contractor Training, and Appendix C – LAFC & LGFI Inspection Basics, Option B, for more details.

Self-inspections could reduce the frequency of local government inspections, depending on the occupancy fire risk and quality of the self-inspection, from annual to every 2, 3, or possibly 4 years. Refer to this document's section 2, Frequency of Inspections, for guidance on devising an appropriate frequency.

Part of the process could have LGFI inspecting a new business for a few years. Only allow businesses with a good inspection record in the past to self inspect. If, after a reasonable timeframe, a business, which should be eligible to self-inspect but has not demonstrate an ability to do so, could be charged for the LGFI inspections unless the business retains a qualified 3<sup>rd</sup> party to conduct its self-inspections.

If self-inspections by some/all types of occupancies, building owners and occupiers are contemplated, other items deserve consideration as well. For example, requiring some or all building owners and occupiers to ensure that, during operating hours, there is always a staff member present with basic training/education in the Code requirements for the fire protection and life safety devices and systems present. These individuals would be responsible for items like daily checks of egress/exiting paths, weekly checks of alarm panel operation, weekly emergency lighting checks and monthly load tests, monthly fire extinguisher checks, etc.

Vocational and educational institutions may provide specific training related to workplace awareness. Jurisdictions and local businesses should become aware of these programs. Local governments may choose to adopt this type of training as a requirement for facility self-inspection programs as a means of ensuring higher levels of fire safety awareness and preparedness.

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## APPENDIX C – LAFC & LGFI INSPECTION BASICS

An LAFC or LGFI should be knowledgeable in:

- i) The BC Fire Code and the relevant sections of the *Fire Services Act*,
- ii) The basics of conducting a BC Fire Code compliance inspection
- iii) The methods for the identification, assessment and control of fire and explosion hazards.

The LAFC or LGFIs should also have the ability to research information necessary (e.g., standards) to fulfill their obligations and/or be able to locate persons with the required knowledge. With this knowledge and ability, an LAFC or LGFI can inspect/consult on any fire or explosion hazard or issue using this checklist.

When an LAFC or LGFI enters public buildings to consult or inspect with respect to protecting workers/occupants from fire and explosion hazards in the building, the intent is to adequately answer some basic questions, then, if appropriate, conduct a more detailed inquiry.

For illustrative purposes, for the inspection options identified in this document's Section 2, Nature of Inspection, possible inspection expectations are shown.

**Inspection Option A – The local government's regular system of inspection does not include self-inspections.**

On an annual basis, the following occurs:

1. Businesses, requiring fire safety plans (FSPs), review their plans and submit a letter stating the plan was reviewed and noting that (1) no changes were required, or (2) changes were required and an updated plan accompanies the letter.
  - a. The LGFI reviews FSP and suggests revisions where appropriate. For example:
    - i. Determine if the FSP was developed in consultation with local fire department and that it has a copy of the current fire safety plan.
    - ii. Determine if the FSP has addressed requirements as outlined in BC Fire Code article 2.8.2.1, including life safety and fire threats common to all occupancies, such as:
      - Exit doors and pathways, exit signage & lighting
      - Functional alarms, fire extinguishers and sprinkler systems; detection devices and sprinklers not obstructed;
    - iii. Determine if the FSP has identified common/obvious electrical and other fire hazards
    - iv. Determine if the FSP has identified the additional FSP requirements for specific hazards and processes within the building or property.
  - b. The LGFI addresses those building owners (new and existing) that did not submit a letter or an initial FSP (i.e., new business) or have not consulted with the local fire fighting services.
2. Local government identifies and inspects, using its LGFIs, the businesses due for a local government inspection based on its inspection frequency model. Inspections:

- a. Determine if the common life safety and fire threats have been identified and addressed. LGFI addresses those building owners that did not.
- b. Determine if the FSP, where required, is being implemented as designed and stated. LGFI addresses those building owners that do not.

**Inspection Option B – The local government’s regular system of inspection includes self-inspections.**

On an annual basis, the following occurs:

1. Businesses, requiring fire safety plans (FSPs), review their plans and submit a letter stating the plan was reviewed and noting that (1) no changes were required, or (2) changes were required and an updated plan accompanies the letter.
  - a. The LGFI reviews FSP and suggests revisions where appropriate. For example:
    - i. Determine if the FSP was developed in consultation with local fire department and that it has a copy of the current fire safety plan.
    - ii. Determine if the FSP has addressed requirements as outlined in BC Fire Code article 2.8.2.1, including life safety and fire threats common to all occupancies, such as:
      - Exit doors and pathways, exit signage & lighting
      - Functional alarms ,fire extinguishers and sprinkler systems; detection devices and sprinklers not obstructed;
    - iii. Determine if the FSP has identified common/obvious electrical and other fire hazards
    - iv. Determine if the FSP has identified the additional FSP requirements for specific hazards and processes within the building or property.
  - b. The LGFI addresses those building owners (new and existing) that did not submit a letter or an initial FSP (i.e., new business) or have not consulted with the local fire fighting services.
2. Businesses requiring self-inspections submit a ‘verification of compliance’ (VOC) letter and/or a self-inspection report. (Note: Local Government could, in its bylaw, require a specific template be used)
  - a. LGFIs determine which businesses have met or have not met their obligations. For example:
    - i. Is the self-inspection conducted by someone adequately knowledgeable for the fire prevention, life safety and fire control and extinguishment requirements of their specific property and building(s)?
    - ii. Are they using the local government’s inspection template, checklist and instructions?
    - iii. What kind of issues, if any, are being identified and rectified by the building owner or his authorized agent?
    - iv. How long has it been since the LGFI has conducted an unannounced inspection to verify accuracy of VOC and supporting documentation? Should an unannounced inspection be conducted this year?
  - b. The LGFI addresses those businesses that did not submit a VOC and/or a self-inspection report and those deemed inadequate.

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3. Local government identifies and inspects, using its LGFIs, the businesses due for a local government inspection based on its inspection frequency model. Inspections:
  - a. Determine if the common life safety and fire threats have been identified and addressed. LGFI addresses those building owners that did not.
  - b. Determine if the FSP, where required, is being implemented as designed and stated. LGFI addresses those building owners that do not.

**Inspection Option C – The local government’s regular system of inspection supplements Option A or Option B with a detailed site visit by an LGFI for all or some of the LGFI inspections.**

On an annual basis, the following occurs:

1. Businesses, requiring fire safety plans (FSPs), review their plans and submit a letter stating the plan was reviewed and noting that (1) no changes were required, or (2) changes were required and an updated plan accompanies the letter.
  - a. The LGFI reviews FSP and suggests revisions where appropriate. For example:
    - i. Determine if the FSP was developed in consultation with local fire department and that it has a copy of the current fire safety plan.
    - ii. Determine if the FSP has addressed requirements as outlined in BC Fire Code article 2.8.2.1, including life safety and fire threats common to all occupancies, such as:
      - Exit doors and pathways, exit signage & lighting
      - Functional alarms ,fire extinguishers and sprinkler systems; detection devices and sprinklers not obstructed;
    - iii. Determine if the FSP has identified common/obvious electrical and other fire hazards
    - iv. Determine if the FSP has identified the additional FSP requirements for specific hazards and processes within the building or property.
  - b. The LGFI addresses those building owners (new and existing) that did not submit a letter or an initial FSP (i.e., new business) or have not consulted with the local fire fighting services.
2. If Option C is built upon Option B, businesses requiring self-inspections submit a ‘verification of compliance’ (VOC) letter and/or a self-inspection report. (Note: Local Government could, in its bylaw, require a specific template be used)
  - a. LGFIs determine which businesses have met or have not met their obligations. For example:
    - i. Is the self-inspection conducted by someone adequately knowledgeable for the fire prevention, life safety and fire control and extinguishment requirements of their specific property and building(s)?
    - ii. Are they using the local government’s inspection template, checklist and instructions?
    - iii. What kind of issues, if any, are being identified and rectified by the building owner or his authorized agent?
    - iv. How long has it been since the LGFI has conducted an unannounced inspection to verify accuracy of VOC and supporting documentation? Should an unannounced inspection be conducted this year?



- b. The LGFI addresses those businesses that did not submit a VOC and/or a self-inspection report and those deemed inadequate.
- 3. Local government identifies and inspects, using its LGFIs, the businesses due for a local government inspection based on its inspection frequency model. Inspections:
  - a. Determine if the common life safety and fire threats have been identified and addressed. LGFI addresses those building owners that did not.
  - b. Determine if the FSP, where required, is being implemented as designed and stated. LGFI addresses those building owners that do not.
  - c. Determine if all of the reasonably foreseeable fire and explosion hazards<sup>2</sup> in this building or property have been identified.

During site visit, ascertain whether or not the plan adequately addresses the fire hazards identified in the FSP. Have some fire hazards been missed? The Fire Hazard Identification Checklist, in the OFC Basic Fundamentals for Inspections, can assist with this task. Part 1 (Collection of Relevant Information) of the FSP Documentation Guide also contains guidance on the types of fire hazards that may be present. This document can be referenced for other types of occupancies by simply ignoring sections that are not applicable to their occupancy.

The LAFC can also ask workers/occupants what fire or explosion hazards they believe exist and do they feel those hazards are being adequately addressed to prevent a fire or explosion.

- d. Determine if each identified fire or explosion hazard has been properly assessed to determine if the hazard can be eliminated or are additional controls required.

There is a hierarchy of control options available to control risks or hazards:

- 1) Eliminate the hazard(s) e.g., eliminate the fuel, the ignition source or the oxygen source,

If elimination is not possible, then:

- 2) Substitute with something less hazardous, e.g., substitute solvent-based paint with water-based paint

And/or control the remaining hazard(s) by:

- 3) Institute engineering controls, e.g., building design & construction material, use & maintain a local exhaust ventilation (LEV) system to capture and discharge fugitive flammable vapours to atmosphere, combustible dust collection systems, bonding and grounding, explosion proof equipment, intrinsically safe electrical equipment – Refer to BC Building Code and BC Fire Code for acceptable solutions and National Fire Prevention Association (NFPA) or similar standards

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<sup>2</sup> The Office of the Fire Commissioner’s LAFC Reviewing Fire Safety Plans, contains a Fire Hazard Identification Checklist that can be used to help fulfill this task.

And

- 4) Develop (1) written safe work procedures, to ensure the engineering controls are used effectively, and (2) a preventative maintenance program, to ensure the controls continue to function as designed,

If engineering controls are not enough, then, consider:

- 5) Administrative controls, e.g., Hot Work Permit system, manual cleaning of hazardous material (e.g., combustible dust accumulation), labeling containers and storage spaces for flammable/combustible materials, effective training

And/or

- 6) The use of personal protective equipment and include in the safe work procedures.

Note: The use of personal protective equipment is always the last option to consider.

- e. Determine that the appropriate control measures have been implemented for each hazard that could not be eliminated.

This includes monitoring to ensure control measures remain effective, alarms to warn occupants when control measures fail, and that emergency procedures (e.g. alarm systems, fire and/or explosion suppression equipment, fire fighting response, evacuation, and appropriate first aid measures) exist.

The LAFC or LGFI can help/direct the building owner or occupier to obtain the information (e.g. from consultants, or to refer to the BC Building and Fire Codes and appropriate standards, e.g., NFPA, CSA, CAN-UL).

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## APPENDIX D – BC FIRE CODE MAJOR OCCUPANCIES

The occupancy of a building is generally a good basis on which to begin the risk review of buildings.

For example, there is a greater risk of fire hazards being present in a night club or licensed establishment than in a theatre. Similarly, there is a likelihood of the risk being greater in a spray paint operation than a retail clothing store. A general fire risk of low, medium or high has been assigned, in the table below, to the occupancy classification based on the general risk attached to that occupancy. Individual occupancies within a local government may have risk level that differs from these general assignments.

The BC Fire Code in Division A, Part 1, Article 1.4.1.2. Defined Terms, defines and classifies major categories of occupancies.

**Note:** Italicized word/phrases are defined in the Code; most definitions related to occupancy have been reproduced in this appendix.

*Major occupancy* means the principle *occupancy* for which a *building* or part thereof is used or intended to be used, and shall be deemed to include subsidiary *occupancies* that are an integral part of the principal *occupancy*. The *major occupancy* classifications used in this Code are as follows:

Classification	Description	General Fire Risk
<b>Group A:</b> <i>Assembly occupancy</i> means the <i>occupancy</i> or the use of a <i>building</i> , or part thereof, by a gathering of persons for civic, political, travel, religious, social, educational, recreational or like purpose, or for the consumption of food or drink.		
<b>A1</b> (Group A, Division 1)	<i>Assembly occupancies</i> intended for the production and viewing of the performing arts.	Low
<b>A2</b> (Group A, Division 2)	Assembly occupancies not elsewhere classified in Group A: <ul style="list-style-type: none"> <li>• Art galleries, libraries, court rooms</li> <li>• Churches, day-care centres, schools</li> <li>• Licensed beverage establishment, some restaurants, some community halls</li> </ul>	Low Medium High
<b>A3</b> (Group A, Division 3)	<i>Assembly occupancies</i> of the arena type	Medium to Low
<b>A4</b> (Group A, Division 4)	<i>Assembly occupancies</i> in which the occupants are gathered in open air	Low

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Classification	Description	General Fire Risk
<b>Group B:</b>		
<b>B1</b> (Group B, Division 1)	<i>Detention occupancies, which means the occupancy by persons who are restrained from or are incapable of evacuating to a safe location without the assistance of another person because of security measures not under their control.</i>	Medium
<b>B2</b> (Group B, Division 2)	<i>Treatment occupancies, which means the occupancy or use of a building or part thereof for the provision of treatment, and where overnight accommodation is available to facilitate treatment.</i>	Low
<b>B3</b> (Group B, Division 3)	<i>Care occupancies, which mean the occupancy or use of a building or part thereof where care is provided to residents.</i>	Medium
<b>Group C:</b>		
<b>C</b>	<i>Residential occupancies, which mean the occupancy or use of a building, or part thereof, by persons for whom sleeping accommodation is provided but who are not harboured for the purpose of receiving care or treatment and are not involuntarily detained.</i>	Medium to High
<b>Group D:</b>		
<b>D</b>	<i>Business and personal services occupancies, which mean the occupancy or use of a building or part thereof for the transaction of business or the rendering or receiving of professional or personal services.</i>	Low
<b>Group E:</b>		
<b>E</b>	<i>Mercantile occupancies (means the occupancy or use of a building or part thereof for the display or selling of retail goods, wares or merchandise.</i>	Low

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Classification	Description	General Fire Risk
<b>Group F:</b> <i>Industrial occupancy</i> means the <i>occupancy</i> or use of a <i>building</i> or part thereof for assembling, fabricating, manufacturing, processing, repairing or storing of goods and materials.		
<b>F1</b> (Group F, Division 1)	<i>High-hazard industrial occupancies</i> , which mean an <i>industrial occupancy</i> containing sufficient quantities of highly combustible and flammable or explosive materials, which, because of their inherent characteristics, constitute a special fire hazard.	Medium to High
<b>F2</b> (Group F, Division 2)	<i>Medium-hazard industrial occupancies</i> , which mean an <i>industrial occupancy</i> in which the combustible content is more than 50 kg/m <sup>2</sup> or 1,200 MJ/m <sup>2</sup> of <i>floor area</i> and not classified as a high-hazard industrial occupancy.	Medium
<b>F3</b> (Group F, Division 3)	<i>Low-hazard industrial occupancies</i> , which means an <i>industrial occupancy</i> in which the combustible content is not more than 50kg/m <sup>2</sup> or 1200 MJ/m <sup>2</sup> of <i>floor area</i> .	Low

**Related Code Definitions:**

*Building* – means any structure used or intended for supporting or sheltering any use or *occupancy*.

*Care* – means the provision of services other than *treatment* by or through care facility management to residents who require these services because of cognitive, physical, or behavioural limitations.

*Floor area* – means the space on any storey of a *building* between the exterior walls and the required *firewalls*, including the space occupied by interior walls and *partitions*, but not including *exits*, *vertical service spaces*, and their enclosing assemblies.

*Occupancy* – means the use or intended use of a *building* or part thereof for the shelter or support of persons, animals or property.

*Partition* – means an interior wall 1 storey or part-storey in height that is not load-bearing.

*Storey* – means that portion of a *building* situated between the top of any floor and the top of the floor next above it, and if there is no floor above it, that portion between the top such floor and the ceiling above it.

*Treatment* – means the provision of medical or other health-related intervention to persons, where the administration or lack of administration of these interventions may render them incapable of evacuating to a safe location without the assistance of another person.

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## ENDNOTES

<sup>i</sup> **From Page 5:** According to the *Fire Services Act*, “public building” includes a factory, a warehouse, store, mill, school, hospital, theatre, public hall, office building and any other building other than a private dwelling.

<sup>ii</sup> **From Page 5:** According to the *Fire Service Act*, s. 36 (1), “officer” means a local assistant and, in a municipality, the chief police officer and any other person authorized by the municipal council to exercise some or all a local assistant’s powers under this Part [i.e., Part 2 – Escape from fire]. The *Fire Services Act*, Definitions, defines the “local assistant” as a local assistant to the fire commissioner as described in section 6. For the purpose of Part 2, s. 36 (1) also defines “building” as a hotel, public building, church, theatre, hall or other building used as a place of public resort, which means Part 2 buildings are a sub-set of public buildings, as defined by the *FSA* - Definitions.

<sup>iii</sup> **From Page 5:** Although the *Fire Code* defines Authority Having Jurisdiction (AHJ) for the purposes of the *Act* as being the Fire Commissioner and the LAFCs. It is also a universally accepted term used to describe the governing body for a specific jurisdictional area. Notwithstanding the universally accepted term, this document will use the terms “local government” and “local government fire prevention officers (LGFI)” to describe the local governing body for a specific jurisdictional area and its fire prevention officers.

<sup>iv</sup> **From Page 6:** Local Assistants to the Fire Commissioner (LAFCs) are established under the provisions of the *FSA* s. 6. LAFCs have office either ex officio or by appointment by the Fire Commissioner or a Fire Chief, depending on circumstances. LAFCs have certain powers conferred statutorily, chiefly the power to enter premises during an inspection and the power to issue remedial safety orders. Often, fire inspectors may be LAFCs but the LAFC designation is not mandatory for fire inspectors. In some local governments, for instance, fire inspection is combined with bylaw enforcement. However, fire inspectors who are not designated Local Assistants cannot exercise the special statutory powers of LAFCs.

<sup>v</sup> **From Page 7:** Regulatory Best Practices Guide link:

[http://www.cscd.gov.bc.ca/lgd/gov\\_structure/library/regulatory\\_best\\_practices\\_guide.pdf](http://www.cscd.gov.bc.ca/lgd/gov_structure/library/regulatory_best_practices_guide.pdf)

<sup>vi</sup> **From Page 10:** The BC Fire Code, Division C, Part 2, Administrative Provisions, Section 2.3, Alternative Solutions, Article 2.3.1.1, Application, states:

- 1) For the purpose of Clause 1.2.1.1.(1)(b) of Division A, on written request by the owner of a building or facility or by an authorized agent of that owner, the Authority Having Jurisdiction [i.e., the Fire Commissioner or Local Assistant] shall accept, for the building or facility, a measure as an alternative solution to an acceptable solution if satisfied that:
  - a. The measure will achieve at least the level of performance required by Clause 1.2.1.1.(1)(b) of Division A, and
  - b. The acceptable solution does not expressly require conformance to a provincial enactment other than this Code or the British Columbia Building Code.

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<sup>vii</sup> **From Page 10:** The *2012 BC Fire Code Regulation*, section 3, Inspections, states:

- (1) For the purposes of inspecting a building or facility for compliance with the British Columbia Fire Code, the fire commissioner or a local assistant may:
  - a. Enter on or into a property
    - i. At a reasonable time and in a reasonable manner, and
    - ii. After having taken reasonable steps to advise the owner or occupier of the property,
  - b. Be accompanied and assisted by a person possessing special or expert knowledge relevant to the building or facility,
  - c. Make examinations and conduct tests,
  - d. Require information relevant to the building or facility,
  - e. Require, for inspection or for the purposes of making copies or extracts, production of documents relevant to the building or facility, and
  - f. Make a record of a matter relevant to the inspection.
- (2) Despite subsection (1)(a), the fire commissioner or a local assistant may only enter a place that is occupied as a private dwelling if the occupier consents.

<sup>viii</sup> **From Page 10:** The *Fire Services Act* [RSBC 1996] Chapter 144, section 21, Inspection of fire hazards, states: On complaint of a person interested or, if believed advisable, without complaint, the fire commissioner and the commissioner's inspectors may at all reasonable hours enter any premises anywhere in British Columbia to inspect them and ascertain whether or not any of the following conditions exist:

- (a) The premises are in a state of disrepair that a fire starting in them might spread rapidly to endanger life or other property;
- (b) The premises are so used or occupied that fire would endanger life of property;
- (c) Combustible or explosive material is kept or other flammable conditions exist on the premises so as to endanger life or property;
- (d) A fire hazard exists on the premises.

<sup>ix</sup> **From Page 11:** "Other "persuasive means" would include promoting compliance through education, issuance of a Notice to Owner or a Warning Letter, or provide additional time to comply (if appropriate).

<sup>x</sup> **From Page 11:** Taken from study report, *The Non-Random Nature of Fire Safety Inspection Compliance*, June 2013, by Fire Chief Len Garis and Dr. Joseph Clare, the University of the Fraser Valley's Centre for Public Safety & Criminal Justice Research.

<sup>xi</sup> **From Page 12:** The owner or the owner's authorized agent's responsibility to comply with the BC Fire Code applies regardless of the type of local government within whose jurisdiction the building and/or property exist.

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<sup>xii</sup> **From Page 13:** Taken from study report, Examining “Regular” Fire-Safety Inspections, March 2012, by Fire Chief Len Garis and Dr. Joseph Clare, the University of the Fraser Valley’s Centre for Public Safety & Criminal Justice Research.

<sup>xiii</sup> **From Page 14:** Excerpt from “Good Practices for Regulatory Inspections: Guidelines for Reformers”, prepared by Scott Jacobs and César Cordova, Directors, Jacobs and Associates, December 2005, under contract to the World Bank. Link:

<https://www.wbginvestmentclimate.org/uploads/20.Goodpractices.pdf>

<sup>xiv</sup> **From Page 15:** local governments have the authority to set fees (refer to the Community Charter Act & the Local Government Act) for inspections to help offset costs that will be incurred for undertaking this service. While many choose not to, it is an available option when considering inspection programs that include site visits.

<sup>xv</sup> **From Page 19:** ‘A Dynamic Risk-Based Framework for Redesigning the Scheduling of Fire Safety Inspections, August 2014’ – a paper by Fire Chief Len Garis and Dr. Joseph Clare, the University of the Fraser Valley’s Centre for Public Safety & Criminal Justice Research.

<sup>xvi</sup> **From Page 21:** Taken from paper, Regulatory Negligence: Negligence with or without a difference? by Charles M. K. Loopstra, Q.C. and Daron L. Earchy of Loopstra Nixon LLP, page 43

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