

**REGIONAL DISTRICT OF CENTRAL OKANAGAN
BYLAW NO. 773**

Being a bylaw to require the owners or occupiers of real property, or their agents, to eliminate or reduce the fouling or contaminating of the atmosphere through the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia; to prescribe measures and precautions to be taken for the purpose; and to establish limits not to be exceeded for those emissions.

WHEREAS the Regional District of Central Okanagan may by bylaw establish and operate the extended service of control of pollution, nuisances, unwholesome or noxious materials, odours and disturbances;

AND WHEREAS in relation to such matters the Regional District of Central Okanagan may require the owners or occupiers of real property, or their agents, to eliminate or reduce the fouling or contaminating of the atmosphere through the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia; and may prescribe measures and precautions to be taken for the purpose; and may establish limits not to be exceeded for those emissions;

AND WHEREAS the Regional District recognizes that smoke at times affects the comfort, convenience and health of its citizens;

NOW THEREFORE the Regional Board of the Regional District of Central Okanagan in open meeting assembled enacts as follows:

1. DEFINITIONS

In this Bylaw:

"Campfire" means a fire not exceeding one meter in diameter and one meter in height used for the purpose of cooking and/or to provide heat and light associated with camping and recreation.

"Compostable materials" means waste products from plants, trees or other vegetation that are naturally biodegradable including grass clippings, leaves, tree needles, garden waste and weeds;

"Inspector" means a duly appointed bylaw enforcement officer, peace officer or designated member of a fire department;

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

"Open burning" means the combustion or burning of any substance or material in the open air by any means but shall not include:

- a. the operation of a permanent outdoor barbeque or outdoor portable barbeque intended for and used solely for the preparation of food.
- b. fires used by fire department authorities for the purposes of education, training and other fire department purposes;
- c. fires used or recommended by authorities having jurisdiction to manage ecosystems for purposes of silvicultural management, forest fuel management, fire hazard reduction, wildlife enhancement, domestic range improvement and the use of fire as a means of fire control.
- d. burning lawfully conducted as part of a farm operation pursuant to the provisions of the *Farm Practices Protection (Right to Farm) Act*;
- e. Campfires

"Permitted burning materials" means seasoned and dry parts of trees or other vegetation that do not constitute compostable materials and shall include prunings, branches, trunks and tree stumps;

"Permitted wood burning appliance fuels" means seasoned untreated wood or manufactured products such as wood pellets and or fuel logs retailed for use as fuel in a solid fuel burning appliance;

"Prohibited burning materials" means waste material including demolition, renovation or construction waste material and those materials listed in the *Open Burning Smoke Control Regulation* enacted pursuant to the *Waste Management Act* as amended from time to time including the following:

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

"Regional Board" means the Board of the Regional District of Central Okanagan;

"Regional District" means the Regional District of Central Okanagan as described in its Letters Patent including the City of Kelowna, The Corporation of the District of Peachland, the District of Lake Country and all electoral areas, but excluding lands located within a First Nations Reserve or lands vested in or under the jurisdiction of the Crown.

All references to the Regional District shall include its officers, employees, agents, elected representatives, inspectors or persons acting on its behalf;

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

"Wood burning appliance" means a solid fuel burning device including, without limitation, a stove, and fireplace insert.

2. SMOKE CONTROL REGULATIONS AND PROHIBITIONS

- 2.1 No person shall cause or permit smoke from open burning except in accordance with this Bylaw.
- 2.2 No person shall cause or permit smoke from open burning on land of which the person is not the owner or occupier unless authorized to do so by the owner or occupier and in accordance with this Bylaw.
- 2.3 No person shall cause or permit smoke from open burning except on land having an area of one hectare or more and in accordance with this Bylaw.
- 2.4 No person shall cause or permit smoke from open burning of prohibited burning materials or compostable materials.
- 2.5 No person shall cause or permit smoke from burning by use of an incinerator, burning barrel or similar device.
- 2.6 No person shall cause or permit smoke from open burning except in accordance with the following regulations:
 - a) Only permitted burning materials shall be burned;
 - b) All permitted burning materials to be burned shall originate from the land on which it is to be burned;
 - c) All burning shall be conducted and concluded between 7:00 a.m. and sunset of the same day except for burning permitted under section 2.6 d;

- d) Stumps and other materials exceeding 20 cm./8" in diameter shall not be burned unless they have been allowed to dry for a minimum of 2 years or are in an equivalent state. Fires for such materials may be maintained for a maximum of 72 hours if the fire is substantially smokeless, provided that no further combustible materials shall be added to a fire after 5:00 p.m. of each day of the fire;
- e) A minimum separation of 30 meters shall be maintained between the location of a fire and all property lines, buildings, and structures;
- f) All fires shall be continuously controlled and supervised by a competent person properly equipped with sufficient fire extinguishing equipment and material;
- g) All fires shall be maintained so as to not constitute a nuisance;
- h) All fires are subject to local fire restrictions in their respective fire districts and are subject to cancellation at any time by any authority having jurisdiction.

3. CAMPFIRES

- 3.1 No persons shall cause or permit smoke from a campfire except in accordance with the following regulations:
 - a) Only permitted burning materials, including seasoned untreated lumber, shall be used in campfires and firewood must be dry and seasoned.
 - b) Campfires shall be continuously controlled and supervised by a competent person equipped with extinguishing equipment and material.
 - c) Campfires shall be maintained so as not to cause a nuisance.
 - d) Campfires are subject to local fire restrictions in their respective fire districts and are subject to cancellation at any time by any authority having jurisdiction.

4. WOOD BURNING APPLIANCES

- 4.1 Only permitted wood burning appliance fuels shall be used in a wood burning appliance or fireplace.
- 4.2 No owner or occupier of land shall cause or permit smoke from the burning of prohibited burning materials, except seasoned untreated lumber, in a wood burning appliance or fireplace.

4.3 No person shall install a wood burning appliance after the date of adoption of this Bylaw that does not comply with the emission standards established by the Canadian Standards Association and the United States Environmental Protection Agency as outlined in the *Solid Fuel Burning Domestic Appliance Regulation* enacted pursuant to the *Waste Management Act* as amended from time to time.

4.4 The Regional Board is hereby authorized to establish a removal program for uncertified wood burning appliances that may incorporate incentives for energy conservation and air quality improvement including, but not limited to, household insulation, insulating products, uncertified wood stove replacement and substitution of heating methods and devices including certified wood stoves.

5. INSPECTIONS AND ORDERS

5.1 An inspector may order the extinguishment of any fire that is in violation of this Bylaw.

5.2 An inspector may enter and inspect any land and/or premises on which burning is being conducted, for the purpose of determining compliance with this Bylaw.

5.3 No person shall interfere with or obstruct an inspector in carrying out his duties pursuant to this Bylaw.

5.4 All persons shall comply with all orders of an Inspector concerning compliance with the provisions of this Bylaw.

5.5 Where a person does not comply with an inspector's order to extinguish a fire or abate a smoke nuisance which is in violation of this Bylaw, the inspector may cause the fire to be extinguished.

6. LIABILITY

6.1 This Bylaw shall not create a duty of the Regional District, its officers, employees, inspectors or person acting on its behalf pursuant to this Bylaw concerning enforcement or failure to enforce any matter contained in this Bylaw.

6.2 No act, error, omission or other neglect of the Regional District in relation to any matter contained in the Bylaw shall give rise to a cause or action or liability to any person.

7. COST RECOVERY

7.1 A person responsible for open burning or a campfire shall ensure that no nuisance is caused and shall be responsible for all costs and expenses resulting from extinguishment of the fire as authorized by Section 5.5.

7.2 Where the person responsible for open burning or a camp fire is the owner of the land or the agent, all costs referred to in this section may be recovered in the same manner as taxes in accordance with the Municipal Act.

8. SEVERANCE

If any section, subsection, paragraph, subparagraph or phrase of this Bylaw is for any reason declared invalid by a Court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.

9. OFFENCES AND PENALTIES

9.1 Any person who contravenes the provisions of this Bylaw commits an offence and is liable to prosecution pursuant to the provisions of the *Offence Act*.

9.2 Each contravention of this Bylaw constitutes a separate offence.

10. DATE OF COMMENCEMENT

This Bylaw is in force from the day following the date of its adoption.

11. TITLE

This Bylaw may be cited as the "Regional District Smoke Control Regulatory Bylaw No. 773, 1998".

READ A FIRST TIME THIS	6th	DAY OF	April,	1998.
READ A SECOND TIME THIS	6th	DAY OF	April,	1998.
READ A THIRD TIME THIS	6th	DAY OF	April,	1998.

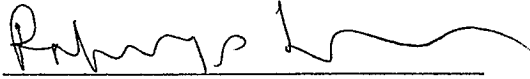
I hereby certify the foregoing to be a true and correct copy of Bylaw No. 773, cited as "Regional District Smoke Control Regulatory Bylaw No. 773, 1998" as read a third time by the Regional Board on the 6th day of April, 1998.

Dated at Kelowna, B.C. this
9th day of April, 1998.



SECRETARY

Reconsidered and adopted this 4th day of May, 1998.



CHAIRPERSON



SECRETARY

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 773, cited as the "Regional District Smoke Control Regulatory Bylaw No. 773, 1998" as adopted by the Regional Board on the 4th day of May, 1998.

Dated at Kelowna, B.C. this
5th day of May, 1998.



SECRETARY