

I, W. d'Easum, Director of Corporate Services for the Regional District of Central Okanagan, do hereby certify that the following 6 pages comprises a true and correct copy of Bylaw No. 773, which was adopted by the Regional Board on the 4<sup>th</sup> day of May, 1998 and has been consolidated to include amending Bylaw Nos. 781-1998, 969-2002, 1059-2004, 1130-2005 and 1218-2007.

Dated at Kelowna, B.C. this  
14th day of September, 2007.

  
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W. d'Easum, Director of Corporate Services

**REGIONAL DISTRICT OF CENTRAL OKANAGAN**  
**SMOKE CONTROL REGULATORY BYLAW NO. 773**  
**CONSOLIDATED**

(Includes Bylaw Nos.:781, 969, 1059, 1130, and1218.)

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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.

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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. *campfires*

"*Permitted burning materials*" means untreated wood, prunings, branches, tree trunks, stumps or other vegetation that have been allowed to dry for at least 2 years and that do not constitute:

- a. *compostible materials* or
- b. the wood, trees, stumps, shubbery and woody debris that results from land being cleared or partially cleared of vegetation to help prepare the land for a different use.

"*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 District of Lake Country and all Electoral Areas, but excluding the Corporation of the District of Peachland and lands located within a First Nation 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.

"*Service Area Fire Departments*" means Wilson's Landing Fire Protection Local Service Area, Ellison Fire Protection Local Service Area, North Westside Road Fire Protection Local Service Area, June Springs Fire Protection Service Area, Brent Road Fire Protection Service Area, Lakeshore Road Fire Protection Service Area, Joe Rich Fire Protection Local Service Area and Westside Fire Protection Service Area.

"*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**

- 2.0 The application of this bylaw shall be limited to the City of Kelowna, the District of Lake Country and the areas included within the boundaries of the Regional District of Central Okanagan *Service Area Fire Departments*."
- 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 :
- a. *prohibited burning materials*,
  - b. *compostable materials* or
  - c. the wood, trees, stumps, shrubbery and woody debris that results from land being cleared or partially cleared of vegetation to help to prepare the land for a different use (e.g. farmland to residential, forestland to residential, forestland to open areas or rural lands to subdivisions etc.).
- 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. Fires for large permitted burning materials such as stumps and other materials over 8 inches (200 mm) in diameter that have been dried in accordance with this bylaw may be maintained for a maximum of 72 hours if the fire is substantially smokeless, however no further permitted burning 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.
- i. Fires are prohibited during Fair or Poor air quality conditions as defined by the Ministry of Water, Land and Air Protection, based on information provided by Environment Canada and the Ministry of Water, Land and Air Protection.

### **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 Only untreated seasoned wood with a moisture content of 20% or less shall be burned in a *wood burning appliance* or fireplace.
- 4.3 No person shall install, or allow to be installed, either indoors or outdoors, a solid-fuel burning appliance, furnace or boiler which is used for the space heating of a building, the heating of water or other such purpose unless it meets the emissions standards of CAN/CSA-B415.1 standard "Performance Testing of Solid-Fuel-Burning Heating Appliances" published by the Canadian Standards Association as amended from time to

time or the emissions standards of the "New Source Performance Standards, Title 40, Part 60, Sub-part AAA of the Code of Federal Regulations (USA) (7-1-92 Edition), published by the United States Environmental Protection Agency" 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.
- 4.5 *Wood burning appliance* fires shall be maintained so as not to cause a nuisance for more than two minutes in succession except during a fifteen-minute period following re-firing of the appliance. This fifteen minute exemption will only be permitted once during a two hour period.

## **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 of 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 *campfire* 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".