



## REQUEST FOR DECISION

**To:** ACRD Board of Directors

**From:** Alex Dyer, MCIP, RPP, Planner

**Meeting Date:** April 8, 2020

**Subject:** Open Burning Regulations

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### **Recommendation:**

- 1) THAT Regional District of Alberni-Clayoquot Solid-Fuel Burning Appliance Emission Regulation Bylaw No. R1030, 2019 be adopted.
- 2) THAT third reading of Alberni-Clayoquot Outdoor Burning Smoke Control Regulation Bylaw No. R1032, 2019 be repealed.
- 3) THAT Regional District of Alberni-Clayoquot Outdoor Burning Smoke Control Regulation Bylaw No. R1032, 2019 be amended as presented.
- 4) THAT Regional District of Alberni-Clayoquot Outdoor Burning Smoke Control Regulation Bylaw No. R1032, 2019 be given third reading as amended.
- 5) THAT Regional District of Alberni-Clayoquot Outdoor Burning Smoke Control Regulation Bylaw No. R1032, 2019 be adopted.
- 6) THAT the Board of Directors direct staff to engage in a public information campaign in collaboration with the Port Alberni Air Quality Council.

### **Summary:**

In the spring of 2019, the Board of Directors considered two bylaws to regulate the emission of smoke from residential burning within the Regional District: the Solid-Fuel Burning Appliance Emission Regulation Bylaw No. R1030 and the Outdoor Burning Smoke Control Regulation Bylaw No. R1032. Bylaw R1030 received third reading on May 8, 2019 and Bylaw R1032 received third reading on June 12, 2019.

The Board directed staff to engage with the Port Alberni Air Quality Council, Ministry of Environment and Island Health on the regulatory burning bylaws. At this time, staff have proposed amendments to the bylaws considering the feedback received and have recommended that the bylaws now be adopted with the proposed amendments.

### **Solid-Fuel Burning Appliances:**

At the May 8, 2019 regular meeting, the Board of Directors gave three readings to the “Solid-Fuel Burning Appliance Emission Regulation Bylaw No. R1030, 2019”. The bylaw will regulate wood burning appliances within the ACRD. The bylaw will require that any new installed solid-fuel burning appliance conforms to the CSA/EPA Standard and require that any existing solid-fuel burning appliance be permanently disconnected and removed by July 1, 2023.

No amendments to the solid-fuel burning appliance bylaw are proposed and staff recommend that Bylaw R1030 be adopted as presented.

### **Outdoor Burning:**

At the June 12, 2019 regular meeting, the Board of Directors gave three readings to the “Outdoor Burning Smoke Control Regulation Bylaw No. R1032, 2019”. The bylaw will regulate open burning within each of the six Electoral Areas and includes varying regulations for campfires, domestic backyard open fires and larger land-clearing open fires.

The bylaw includes provisions for atmospheric venting; time of year and time of day; size of fires; number of fires on a parcel of land; setbacks from combustible materials, buildings and property lines; permitted burning materials; time limited smoke-release periods; establishment of a fuel break; competent supervision; safety equipment; and compliance with provincial and federal regulations.

The bylaw provides exemptions for cooking fires contained within barbeques and cooking appliances, fires maintained by fire services personnel and fires relating to “normal farm practices” and “forest practices” under specific circumstances as defined by relevant provincial legislation.

### **Open Burning Smoke Control (OBSC) Regulation:**

The provincial *Open Burning Smoke Control (OBSC) Regulation* was substantially revised and updated following the Board’s consideration of Bylaw R1032 for three readings. The new regulation, which came into effect on September 15, 2019, sets out the conditions under which open burning of vegetative debris takes place in the province with an intent to reduce air quality related impacts on human health. The OBSC Regulation generally applies to larger scale open burning generated from land clearing, forestry activities, agricultural activities, etc. and not to domestic backyard burning and campfires.

The OBSC Regulation exempts the burning of vegetative debris with a diameter less than 3cm, typical of branches in a domestic backyard burn, from any regulatory requirements and debris with

a diameter between 3cm and 10cm are subject to only limited requirements. The full application of the OBSC Regulation is intended for open burning of larger vegetative debris over 10cm. Local governments can apply additional regulations to any of the Province's open burning requirements and the ability to regulate the burning of debris under 10cm in diameter provides an opportunity for the ACRD to add regulation for fires that are exempt under the OBSC Regulation.

The Port Alberni Air Quality Council, with involvement from Ministry of Environment and Island Health representatives on the AQC, have reviewed the bylaws on two occasions and have suggested amendments that reflect a desire to better align the ACRD bylaw with the revised OBSC Regulation. This would allow the province to manage large scale open burning under their revised regulations while providing the opportunity for the ACRD to manage domestic backyard open burning within rural residential and agricultural areas in the Regional District.

### **Amendments to Outdoor Burning Smoke Control Regulation Bylaw No. R1032:**

Staff recommend that the Board of Directors repeal third reading of Bylaw R1032 and make the following amendments to the bylaw:

1. Change definitions of open burning to Category A Open Fires for debris with a diameter less than 10cm and Category B Open Fires for debris with a diameter 10cm or greater. Category A fires have limited restrictions under the OBSC Regulation and Category B fires must comply with all provisions of the Regulation.
2. Minimum setback provisions for Category B Open Fires removed from the bylaw and replaced by reference to the setbacks required in the OBSC Regulation, which change depending on the atmospheric conditions and scale of the fire.
3. Add "Each parcel of land is limited to a maximum of 12 days of Category A or Category B Open Fire burning in each calendar year and 6 days of Open Fire burning in each calendar month" to the conditions of Open Burning to align with the OBSC Regulation within High Smoke Sensitivity Zones.
4. For clarity, change the provision "Fires must be during daylight hours only" in the conditions of Open Burning to "Fires must be ignited no earlier than one hour after sunrise and additional unlit debris must not be added to a fire later than two hours before sunset".
5. Minor adjustments to the wording of definitions to better align with the provisions of the OBSC Regulation.

The bylaw presented to the Board has been adjusted to reflect the suggest amendments noted above. After amending Bylaw R1032, the Board can give the bylaw third reading as amended and adopt the bylaw at the same Board meeting.

### **Public Information Campaign:**

Following adoption of the burning appliance and open burning regulations, planning staff recommend that the Regional District launch a public engagement campaign to inform the public of the new regulations and build knowledge of the need for burning restrictions in our communities.

In the short term during the COVID-19 pandemic, planning staff propose sharing information through a website dedicated to burning regulations, social media posts, newspaper advertisements, bulk mailout to residents. In the longer term following the pandemic, staff propose open houses to be held in the Alberni Valley, Bamfield and Long Beach.

The Port Alberni Air Quality Council (AQC) has broad representation within the Alberni Valley and staff propose that the public information campaign be led by the Regional District in collaboration with the AQC in the Alberni Valley. Staff can work with similar organizations in the Long Beach and Bamfield areas to guide information sharing in those communities.

It is important to note that, apart from engagement with the AQC and the Province, very limited public engagement occurred in the development of the two burning bylaws. If the Board wishes, it can defer a decision on adopting the burning regulation bylaws to allow for public input. Recognizing the public health threat posed by exposure to particulate matter, staff are recommending that the bylaws be adopted now and that a program be developed to inform the public of the new regulations. The Board can choose to amend the regulatory bylaws at any time in the future.

### **Time Requirements – Staff & Elected Officials:**

Significant staff time will be required to conduct a public information campaign, respond to public inquires and complaints and to enforce the bylaws after implementation. It is anticipated that significant bylaw enforcement staff time would be required to administer the bylaw. Enforcement of the bylaws on the west coast will require significant travel time to respond to complaints. Staff are investigating creative possibilities to work with ACRD staff located on the west coast or with the Districts and Treaty First Nations on the west coast to identify enforcement resources that could be utilized locally. The intent is to avoid situations that require 3-4 hours of round-trip travel time from the Alberni Valley to respond to one complaint.

In order to be effective, planning staff also recommend that contraventions to the bylaw be dealt with through a Bylaw Notice Enforcement ticketing process to gain compliance. Staff expect to have the Bylaw Notice Enforcement bylaw ready for consideration by the Board in spring 2020 with implementation of the ticketing process following adoption of the bylaw.

### **Financial:**

The Board included 0.5 FTE staff resourcing in the 2020-2024 Financial Plan to implement, monitor and enforce the burning bylaws. The Board would have to assess this service level over time in making its determination as to whether its objectives were being met. Implementing a Bylaw Notice

Enforcement ticketing process will help gain compliance with the regulations, but it is not expected to be a cost recovery service with the staff time required to investigate and issue notices.

**Options Considered:**

1. Proceed with adoption of both burning bylaws and direct staff to engage in a public information campaign.
2. Proceed with adoption of both burning bylaws with no public information campaign.
3. Defer a decision on the bylaws and direct staff to gather public input on burning regulations in the ACRD and seek formal referral comments from the Province prior to proceeding.

Submitted by:   
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Alex Dyer MCIP, RPP, Planner

Reviewed by:   
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Mike Irg MCIP, RPP, General Manager of Planning and Development

Approved by:   
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Douglas Holmes BBA, CPA, CA, Chief Administrative Officer

## REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT

### BYLAW NO. R1030

#### A Bylaw to Regulate Solid-Fuel Burning Appliance Emissions

**WHEREAS** the Regional District of Alberni-Clayoquot is empowered under supplementary Letters Patent dated December 22, 1966 to exercise the powers of the *Municipal Act* relating to air pollution control;

**AND WHEREAS** Section 325 of the *Local Government Act* gives the Regional District of Alberni-Clayoquot the authority to regulate the emission of smoke and require owners or occupiers of real property to eliminate or reduce the fouling or contaminating of the atmosphere through those emissions;

**NOW THEREFORE**, the Board of Directors of the Regional District of Alberni-Clayoquot in open meeting assembled enacts as follows:

#### **1. AREA**

This bylaw shall apply within the boundaries of Electoral Area "A" (Bamfield), Electoral Area "B" (Beaufort), Electoral Area "C" (Long Beach), Electoral Area "D" (Sproat Lake), Electoral Area "E" (Beaver Creek) and Electoral Area "F" (Cherry Creek).

#### **3 DEFINITIONS**

**"Certified appliance"** means a fireplace, woodstove, wood-fired furnace, or other wood or solid-fuel burning appliance or device intended for space heating of buildings, the heating of water or other such purpose and is located in the interior of a building and which contains an identification label affixed to the appliance indicating compliance with either the CSA Standard or EPA Standard.

**"CSA Standard"** means the "Performance Testing of Solid-Fuel Burning Heating Appliances" CAN/CSA-B415.1 standard, published by the Canadian Standards Association (CSA), as amended from time to time.

**"EPA Standard"** means the "New Source Performance Standards, Title 40, Part 60, Sub-part AAA of the Code of Federal Regulations (USA) (7-1-02 Edition)" standard, published by the United States Environmental Protection Agency (EPA), as amended from time to time.

**"Solid-fuel burning appliance"** means a fireplace, fireplace insert, woodstove, pellet stove, wood-fired furnace, or other wood or solid-fuel burning appliance or device intended for space heating of buildings, the heating of water or other such purpose and is located in the interior of the building which it serves, but specifically excludes a coal burning device.

#### **4. PROHIBITION**

No person shall install, or allow to be installed, a solid-fuel burning appliance unless the appliance is a certified appliance which conforms to the CSA Standard or EPA Standard.

**5. REGULATION OF EXISTING NON-COMPLIANT APPLIANCE**

Existing solid-fuel burning appliances not in compliance with Section 4 above will be permitted to remain in service until July 1, 2023, providing that the solid-fuel burning appliance, its installation and use otherwise meet required safety standards. Thereafter, any such non-conforming solid-fuel burning appliance must be permanently disconnected and removed from the structure.

**6. INSPECTION**

A Building Inspector, Bylaw Enforcement Officer, Fire Chief, or designate of a Fire Chief, may enter and inspect any premises in which burning is being conducted, for the purpose of determining compliance with this bylaw.

**7. OFFENCE**

Any person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act to be done in contravention of this bylaw, commits an offence and shall be liable upon conviction to a fine not more than the maximum prescribed in the *Offence Act*, as amended from time to time.

**8. SEVERABILITY**

If any section or lesser portion of this bylaw is held to be invalid by a Court, such invalidity shall not affect the remaining portions of the bylaw.

**9. TITLE**

This bylaw may be cited as the "Solid-Fuel Burning Appliance Emission Regulation Bylaw No. R1030, 2019"

Read a first time this 8<sup>th</sup> day of May, 2019

Read a second time this 8<sup>th</sup> day of May, 2019

Read a third time this 8<sup>th</sup> day of May, 2019

ADOPTED this    day of    , 2019

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Douglas Holmes, BBA, CPA, CA  
Chief Administrative Officer

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Chairperson of Regional Board

## REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT

### BYLAW NO. R1032

#### Outdoor Burning Smoke Control Regulation Bylaw

**WHEREAS** the Regional District of Alberni-Clayoquot is empowered under supplementary Letters Patent dated December 22, 1966 to exercise the powers of the *Municipal Act* relating to air pollution control;

**AND WHEREAS** Section 325 of the *Local Government Act* gives the Regional District of Alberni-Clayoquot the authority to regulate the emission of smoke and require owners or occupiers of real property to eliminate or reduce the fouling or contaminating of the atmosphere through those emissions;

**NOW THEREFORE**, the Board of Directors of the Regional District of Alberni-Clayoquot in open meeting assembled enacts as follows:

#### **1. AREA**

This bylaw shall apply within the boundaries of Electoral Area "A" (Bamfield), Electoral Area "B" (Beaufort), Electoral Area "C" (Long Beach), Electoral Area "D" (Sproat Lake), Electoral Area "E" (Beaver Creek) and Electoral Area "F" (Cherry Creek).

#### **3 DEFINITIONS**

**"Campfire"** means a fire that is:

- a) located within a permanent outdoor fireplace or fire pit that is designed and constructed to confine the fire;
- b) limited in size to no larger than 0.5 m in height and 0.5 m in width; and
- c) lit, fuelled or used by any person for a recreational or ceremonial purpose.

**"Category A Open Fire"** means an open fire that is:

- a) limited to vegetative debris with a diameter less than 10 cm; and
- b) burns material in one pile not exceeding 2 m in height and 3 m in width, or burns stubble or grass over an area that does not exceed 0.2 ha.

**"Category B Open Fire"** means an open fire that contains vegetative debris with a diameter of 10 cm or greater, or includes stubble or grass over an area 0.2 ha or greater;

**"Debris"** means disturbed or undisturbed vegetative matter targeted for management or disposal by open burning.

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

**"Fuel Break"** means a barrier, change in fuel type, change in condition or strip of land that has been modified or cleared to prevent fire spread.

**"Heavy Equipment"** means crawler tractors, skidders, excavators or other suitable mechanized fire fighting equipment.

**“Inspector”** means a Bylaw Enforcement Officer, Fire Chief, designated member of a Fire Department or peace officer.

**“Open Burning”** means the combustion of material with or without control of the combustion air and without a stack or chimney to vent the emitted products of combustion to the atmosphere.

**“Open Burning Smoke Control (OBSC) Regulation”** means the provincial Open Burning Smoke Control Regulation of *the Environmental Management Act*, as amended from time to time;

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

**“Prohibited Materials”** includes tires, plastic, polystyrene foam, rubber products, drywall, demolition waste, domestic waste, construction waste, paint, special waste, animal organic waste, biomedical waste, hazardous waste, tar, tar paper, treated or painted wood products, furniture, appliances, carpets, railway ties, asphalt products, battery boxes, petroleum products, fuel and lubricant containers or any other material which may produce black smoke or noxious odours.

**“Province”** means the Province of British Columbia.

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

**“Ventilation Index”** means the forecast ventilation index prepared using Environment Canada data.

#### 4. OPEN BURNING

- 1) Category A Open Fires and Category B Open Fires are permitted only:
  - i. When the ventilation index is rated as ‘good’, as reported by Environment Canada’s Ventilation Index;
  - ii. Between March 1 and April 30 inclusive and between September 30 and November 30 inclusive, unless otherwise prohibited by the Province.
- 2) Category A Open Fires permitted under subsection (1) are subject to the following requirements:
  - i. Category A Open Fires must be compliant with the Province’s *Open Burning Smoke Control (OBSC) Regulation* where applicable;
  - ii. Fires limited to:
    - a. vegetative debris with a diameter less than 10 cm.
    - b. debris burned in one pile not exceeding 2 m in height and 3 m in width, or stubble or grass over an area that does not exceed 0.2 ha;
  - iii. Fires must be located at minimum:
    - a. 2 metres from any shrubs, trees or other combustible materials;
    - b. 5 metres from any building or structure;
    - c. 10 metres from any property line;
  - iv. Only one open fire per parcel of land at any one time;

- v. Fire-fighting equipment, including a shovel, rake and hose connected to a water source, must be on hand and readily available;
- vi. All material burned must originate from the parcel of land where it is burned;
- vii. All material burned must consist of untreated natural wood and brush and must not include any prohibited materials;
- viii. Fires must be ignited no earlier than one hour after sunrise and additional unlit debris must not be added to a fire later than two hours before sunset;
- ix. The smoke-release period for any fire must not exceed 72 consecutive hours;
- x. Each parcel of land is limited to a maximum of 12 days of Category A or Category B Open Fire burning in each calendar year and 6 days of Open Fire burning in each calendar month;
- xi. The property owner, or designate of the property owner, must ensure that a competent person is present at all times when the fire is burning, for the purpose of controlling and supervising the fire;
- xii. Compliance with all applicable provincial and federal regulations.

3) Category B Open Fires permitted under subsection (1) are subject to the following requirements:

- i. Category B Open Fires must be compliant with the Province's *Open Burning Smoke Control (OBSC) Regulation* where applicable;
- ii. Category B Open Fires include any fire that contains vegetative debris with a diameter of 10 cm or greater, or includes stubble or grass over an area exceeding 0.2 ha;
- iii. Fires must be located in compliance with the minimum setbacks provided in the Province's *OBSC Regulation*;
- iv. Fire-fighting equipment, including heavy equipment and hose connected to a water source, must be on hand and readily available;
- v. All material burned must originate from the parcel of land where it is burned;
- vi. All material burned must consist of untreated natural wood and brush and must not include any prohibited materials;
- vii. Establishment of a fuel break surrounding the fire;
- viii. Fires must be ignited no earlier than one hour after sunrise and additional unlit debris must not be added to a fire later than two hours before sunset;
- ix. The smoke-release period for any fire must not exceed 72 consecutive hours;
- x. Each parcel of land is limited to a maximum of 12 days of Category A or Category B Open Fire burning in each calendar year and 6 days of Open Fire burning in each calendar month;
- xi. The property owner, or designate of the property owner, must ensure that a competent person is present at all times when the fire is burning, for the purpose of controlling and supervising the fire;
- xii. Compliance with all applicable provincial and federal regulations.

4) Campfires are permitted at any time, unless otherwise prohibited by the Province, subject to the following requirements:

- i. Campfires limited to one pile no larger than 0.5 m in height and 0.5 m in width;
- ii. Campfires must be located:
  - a. within a permanent outdoor fireplace or fire pit that is designed and constructed to confine the fire;
  - b. a minimum of 5 metres from any building, structure or property line;

- iii. Fire-fighting equipment, including a shovel, rake and hose connected to a water source, must be on hand and readily available;
- iv. All material burned must consist of untreated natural wood and brush and must not include any prohibited materials;
- v. The property owner, or designate of the property owner, must ensure that a competent person is present at all times when the fire is burning, for the purpose of controlling and supervising the fire;
- vi. Compliance with all applicable provincial and federal regulations.

## **5. EXCEPTIONS**

- 1) Nothing in this bylaw restricts or prohibits:
  - i. A fire contained within a barbeque or appliance designed to cook food;
  - ii. Fires started and maintained by Alberni-Clayoquot Regional District staff, fire services personnel and emergency services personnel in the course of their duties;
  - iii. Any person undertaking open burning as part of “normal farm practices” as defined in the *Province’s Farm Practices Protection Act*;
  - iv. Any person undertaking open burning as part of “forest practices” as defined in the *Province’s Forest and Range Practices Act* or forest practices on land manage under the *Province’s Private Managed Forest Land Act*, Crown Land and any Alberni-Clayoquot Regional District land used for forestry purposes;

## **6. INSPECTION AND ORDERS**

- 1) An Inspector may enter and inspect any premises in which burning is being conducted at all reasonable times, for the purpose of determining compliance with this bylaw.
- 2) An Inspector may order the extinguishment of any fire that is in violation of this bylaw.
- 3) An Inspector may prevent prohibited materials from being added to any fire.
- 4) No person shall interfere with or obstruct an Inspector in carrying out their duties pursuant to this bylaw.

## **7. OFFENCE**

Any person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act to be done in contravention of this bylaw, commits an offence and shall be liable upon conviction to a fine not more than the maximum prescribed in the *Province’s Offence Act*, as amended from time to time.

## **9. LIABILITY**

This bylaw shall not create a duty or responsibility for the Alberni-Clayoquot Regional District, its officers, employees, Inspectors or persons acting on its behalf pursuant to this bylaw, concerning enforcement or failure to enforce any provision contained within this bylaw.

**8. SEVERABILITY**

If any section or lesser portion of this bylaw is held to be invalid by a Court, such invalidity shall not affect the remaining portions of the bylaw.

**9. REPEAL**

Bylaw R1025, cited as the “Bamfield Residential Backyard Burning Bylaw No. R1025, 2013” is hereby repealed.

**10. TITLE**

This bylaw may be cited as the “Outdoor Burning Smoke Control Regulation Bylaw R1032, 2019”

Read a first time this 12<sup>th</sup> day of June, 2019

Read a second time this 12<sup>th</sup> day of June, 2019

Read a third time this    day of    , 2020

Adopted this    day of    , 2020

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Douglas Holmes, BBA, CPA, CA  
Chief Administrative Officer

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Chairperson of Regional Board