



REQUEST FOR DECISION

To: ACRD Board of Directors

From: Alex Dyer, MCIP, RPP, Planner
Mike Irg, MCIP, RPP, Manager of Planning and Development

Meeting

Date: May 8, 2019

Subject: Wood Burning Appliances and Open Burning Regulations

Recommendation:

- 1) THAT Regional District of Alberni-Clayoquot Solid-Fuel Burning Appliance Emission Regulation Bylaw No. R1030, 2019 be read a first time.
- 2) THAT Regional District of Alberni-Clayoquot Solid-Fuel Burning Appliance Emission Regulation Bylaw No. R1030, 2019 be read a second time.
- 3) THAT Regional District of Alberni-Clayoquot Solid-Fuel Burning Appliance Emission Regulation Bylaw No. R1030, 2019 be read a third time.
- 4) THAT the Board of Directors direct staff to draft a bylaw to regulate open burning within the Regional District.

Summary:

The Board received a delegation from Dr. Hasselback, Chief Medical Officer; Earle Plain, Air Quality Meteorologist; and Anna Lewis, Alberni Air Quality Council Coordinator in 2018 presenting rationale for the ACRD to develop wood stove and burning regulations.

The Air Quality Council (AQC) has requested that the ACRD investigate options to mitigate smoke impacts from open burning and residential wood heat in support of the Council's development of an air shed management plan. The AQC requested that the following actions be considered by the Board:

- 1) Adopt a sunset clause with regards to all wood burning stoves required to meet EPA standards by 2023; and
- 2) Investigate the development of optional regional bylaws regarding open burning.

Solid-Fuel Burning Appliances:

The ACRD has co-facilitated the wood stove exchange program with the Ministry of Environment and the BC Lung Association since 2008. The program provides rebates of up to \$400 for the exchange of old, uncertified wood stoves (pre-1994) for a new CSA/EPA certified wood stove. In 2019, the program also provides rebates of up to \$800 for the exchange of any woodstove older than 5 years for a pellet, gas, propane or electric heating appliance.

The ACRD has the ability to regulate the emission of smoke under Section 325 of the *Local Government Act*. Staff have consulted with the Air Quality Council and have reviewed bylaws from other jurisdictions, notably the City of Port Alberni.

It is anticipated that the adoption of a bylaw to regulate emissions from wood stoves would encourage better use of the wood stove exchange program and over the next four years would help improve air quality within our communities.

A draft bylaw has been prepared which would include the following regulations for solid-fuel and wood burning appliances:

- 1) Effective at the adoption of the bylaw in 2019, any new solid-fuel and wood burning appliances installed within the ACRD would be required to meet minimum CSA/EPA emission standards;
- 2) All existing solid-fuel and wood burning appliances not meeting CSA/EPA emission standards to be removed by July 1, 2023; and
- 3) Provision for inspection where violation of the bylaw is suspected.

Planning staff are recommending that the draft bylaw be referred to Island Health and Ministry of Environment staff for their review before the Board considers the bylaw for final adoption.

Open Burning Regulation:

Staff have investigated three options for regulating emissions from open burning, or backyard burning, in the ACRD. Each option will require the allocation of staff resources to facilitate the program.

1) Develop a bylaw to regulate open backyard burning.

Open burning can be regulated and limited by bylaw according to standards such as time of year, combustibility of the material, atmospheric conditions, maintenance of a firebreak, setbacks, duration of the fire, size of the fire, etc. This regulation would supplement the provincial *Wildfire Act* requirements for monitoring the venting index and fire control measures.

The bylaw could be restricted to more densely populated areas or applied to the entire Regional District. A permit system could be established to allow for oversight by Regional District staff. There would need to be an active bylaw enforcement component to implementing this bylaw with the possibility of looking at ticketing for non-compliance.

ACRD Bylaw R1025 regulates residential backyard burning within the Bamfield Fire Protection Area. This is the only burning regulation applied by the ACRD at this time. The Cowichan Valley Regional District has a Smoke Control Bylaw that regulates open burning throughout their area and the Regional District of Nanaimo has open burning regulations within specified areas.

2) Develop a bylaw to prohibit open backyard burning.

A bylaw to prohibit open backyard burning could be implemented. This bylaw could apply to specific areas or the entire Regional District. This bylaw would also require a resourced bylaw enforcement component to be effective. The Regional District's ability to implement a fire prohibition applying uniformly to all areas is limited by provincial regulations that apply to forestry uses on privately owned land and agricultural uses on farm land. Any restriction on normal farm practice under the *Farm Practices Protection (Right to Farm) Act* is limited to land located within the Agricultural Land Reserve.

The ban on open burning for yard waste and clearing without permitted approval would match regulations of the member municipalities: City of Port Alberni, District of Tofino and District of Ucluelet. Fires such as campfires and contained cooking fires could be exempted from the bylaw.

3) Expand Burn It Smart educational campaign.

The Air Quality Council has produced a number of resources available on the ACRD website including outdoor burning information brochures, alternatives to outdoor burning, information on the health impacts of smoke pollution and tips for residents to burn smart.

Rather than increasing regulation, the Regional District could expand upon education initiatives such as the AQC Burn It Smart campaign. An expanded Burn It Smart campaign would include public workshops, educational brochures, display materials, social media. The educational campaign would be more economical than increasing regulation but would be less effective in changing burning habits.

Bylaw Enforcement

Adopting regulations for open burning in the Regional District can only be effective if combined with the bylaw enforcement resources required to implement the regulations. It is anticipated that significant bylaw enforcement staff time would be required to administer the bylaw.

In order to be effective, planning staff also recommend that contraventions to the bylaw be dealt with through a Bylaw Enforcement Notice ticketing process to gain compliance. ACRD Bylaw R1025, which regulates open burning in the Bamfield Fire Protection Area, is an example of a bylaw that could be more effective with an active and resourced enforcement program.

The Board does not have to actively enforce burning bylaws. Staff anticipate that there would still be a certain level of compliance without active enforcement. While staff does not recommend this course of action, any reduction in particulate matter (wood smoke) will result in a public health benefit.

Public Input Component

Prior to adopting any open burning regulation, planning staff recommend that public meetings are held in the Alberni Valley and Long Beach to gather input. Public input can be gathered in conjunction with the open houses for the zoning bylaw update. Following public input, the bylaws can be presented to the Board for adoption in the fall.

Time Requirements – Staff & Elected Officials:

Significant staff time will be required to conduct open houses, respond to public inquires and complaints and to enforce the bylaws after implementation. Enforcement of the bylaws on the west coast will require significant travel time to respond to complaints.

Financial:

Staff anticipate the cost of enforcement to be significant and anticipate that a 0.5 FTE would be required to implement, monitor and enforce these 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 Enforcement Notice 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:

1. Proceed with adoption of the wood stove bylaw and an open burning bylaw with enforcement of both.
2. Proceed with adoption of the wood stove bylaw and an open burning bylaw with no active enforcement.
3. Do not proceed with the wood stove bylaw and an open burning bylaw.

Submitted by: 
Alex Dyer, MCIP, RPP, Planner

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

Approved by: 
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 day of , 2019

Read a second time this day of , 2019

Read a third time this day of , 2019

ADOPTED this day of , 2019

Douglas Holmes, BBA, CPA, CA
Chief Administrative Officer

Chairperson of Regional Board