

THE CORPORATION OF THE DISTRICT OF POWELL RIVER

**BYLAW NO. 2083, 2005**

A bylaw to establish Wood Burning Appliance Smoke Control within the Municipality

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**WHEREAS** the Corporation of the District of Powell River may, by bylaw, regulate, prohibit and impose regulations in relation to the protection and enhancement of the well-being of its community in relation to the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere;

**AND WHEREAS** Council recognizes that the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia at times affects the comfort, convenience and health of its citizens;

**NOW THEREFORE**, the Municipal Council of the Corporation of the District of Powell River, in open meeting assembled, enacts as follows:

**Title:**

1. This bylaw may be cited as "Powell River Wood Burning Appliance Control Bylaw No. 2083, 2005".

**Definitions:**

2. In this Bylaw:

**"Nuisance"** means the emission into the atmosphere of smoke by any means which disturbs or is capable of disturbing the comfort, convenience, and health of persons in the vicinity.

**"Occupant"** includes:

- a) a person residing on or in property;
- b) the person entitled to the possession of property if there is no person residing on or in the property; and
- c) a leaseholder.

**"Officer"** means the Corporation of the District of Powell River's Director of Fire & Emergency Services, Chief Fire Prevention Officer, or Deputy Fire Chief.

**"Owner"** means a person who has any right, title, estate or interest in property, other than that of an occupant, and shall include the agent of any such person.

**"Permitted Wood Burning Appliance Fuel"** means seasoned, untreated wood or manufactured products such as wood pellets or fuel logs retailed for use as fuel in a wood burning appliance.

**"Prohibited Burning Materials"** means waste material including demolition, renovation or construction waste material, tires, plastics, drywall, domestic waste, demolition or construction waste, paint, special waste, tar paper, treated lumber, railway ties, manure, rubber, asphalt products, fuel and lubricant containers or biomedical waste.

**"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 and fumes.

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**”Wood Burning Appliance”** means a solid fuel burning device such as a stove, pellet stove, fireplace insert or factory built fireplace but does not include a cook stove, a central heating system, a masonry heater or a site-built fireplace;

**Wood Burning Appliance Installation**

3. (a) The installation of all new Wood Burning Appliances must meet the requirements of the British Columbia Building Code and Canadian Standards Association of B365 (installation code) for solid fuel burning appliances and the U.S. Environmental Protection Agency.
- (b) Where a Wood Burning Appliance is being installed to replace an existing Wood Burning Appliance, the new Wood Burning Appliance must meet the requirements of Section 3 (a).
- (c) Where an existing Wood Burning Appliance requires an inspection it must meet the manufacturers required specification or requirements of Canadian Standards Association B365 and Wood Energy Technology Transfer of British Columbia (WETTBC).
- (d) Only Permitted Wood Burning Appliance Fuels shall be used in a Wood Burning Appliance or fireplace. At no time may Prohibited Burning Materials be used in a Wood Burning Appliance or fireplace.

**Inspection and Orders:**

4. (a) An Officer may enter and inspect any land and/or premises on which burning is being conducted for the purposes of determining compliance with this bylaw.
- (b) No person shall interfere with or obstruct an Officer in carrying out his/her duties pursuant to this bylaw.
- (c) All persons shall comply with all orders of an Officer concerning compliance with the provisions of this bylaw.
- (d) An Officer may order the extinguishment of any fire that is in violation of this bylaw.
- (e) When a person does not comply with an Officers order to extinguish a fire or abate a smoke nuisance which is in violation of this bylaw the Officer may cause the fire to be extinguished.

**Cost Recovery:**

5. (a) An Owner or Occupant responsible for the use of a Wood Burning Appliance shall ensure that no nuisance is caused and shall be responsible for all costs and expenses resulting from extinguishment of the fire authorized by an Officer under Section 4 (e).
- (b) In the event that an Owner or Occupant fails to pay the costs for which he or she is responsible under section 5(a) before the 31<sup>st</sup> day of December in each year in which the compliance was in effect and the invoice issued, all such costs will be deemed to be taxes in arrears on the property containing the Wood Burning Appliance.

### **Offences and Penalties**

6. Any person who contravenes any of the provisions of this bylaw commits an offence and shall be liable to prosecution under, and the penalties imposed, pursuant to the *Offence Act (BC)*.

### **Severability:**

7. If any part, section, sub-section, clause, or sub-clause of this bylaw for any reason is held to be invalid by the decision of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.

### **Liability**

8. This bylaw shall not create a duty of the Corporation of the District of Powell River, its officer, employees, inspectors or person acting on its behalf pursuant to this bylaw concerning enforcement or failure to enforce any matter contained in this bylaw.
9. No act, error, omission or other neglect of the Corporation of the District of Powell River in relation to any matter contained in this bylaw shall give rise to a cause or action or liability to any person.

READ a first time by Municipal Council this 11<sup>th</sup> day of October, 2005.

READ a second time by Municipal Council this 11<sup>th</sup> day of October, 2005.

READ a third time by Municipal Council this 11<sup>th</sup> day of October, 2005.

ADOPTED by City Council this 25<sup>th</sup> day of October 2005.

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Stewart B. Alsgard, Mayor

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Marie Claxton, City Clerk