

THE CORPORATION OF THE DISTRICT OF CENTRAL SAANICH

BYLAW NO. 2058

A Bylaw to Regulate Open Burning in the District of Central Saanich

WHEREAS the *Community Charter* authorizes Council to enact bylaws to regulate, prohibit and impose requirements for the protection of persons and properties, and to enhance the well-being of the community in relation to nuisances, disturbances and other objectionable circumstances;

NOW THEREFORE the Council of the District of Central Saanich, in open meeting assembled, enacts the following:

CITATION

1.1 This bylaw may be cited as the **"Open Burning Regulation Bylaw No. 2058, 2020"**.

INTERPRETATION

2.1 In this bylaw:

"Agricultural Purpose Fire" means an open fire, other than a campfire or other recreational fire, that burns:

- (a) vegetative debris where branches or other pieces of vegetative debris, with or without leaves, are no greater than 10 centimetres in diameter;
- (b) takes place on parcels of land in the Agricultural Land Reserve or is classified as Farm status by BC Assessment;
- (c) material concurrently in 2 piles each not exceeding 2 metres in height and 3 metres in width; or
- (d) burns stubble or grass over an area that does not exceed 0.2 hectares;

"Category 3 Open Fire" means an open fire that burns

- (a) vegetative debris where branches or other pieces of vegetative debris, with or without leaves, are greater than 10 centimetres in diameter;
- (b) material concurrently in 3 or more piles each not exceeding 2 metres in height and 3 metres in width;
- (c) material in one or more piles each exceeding 2 metres in height or 3 metres in width;
- (d) one or more windrows; or
- (e) stubble or grass over an area exceeding 0.2 hectares;

"Demolition Waste" means any waste resulting from or produced by the complete or partial destruction or tearing down of any structure other than material prohibited in the *Open Burning Smoke Control Regulation*;

"District" means the District of Central Saanich;

"Diseased Vegetative Debris" means vegetative debris that is verified or confirmed under the *Open Burning Smoke Control Regulation* as being infested with a plant pathogen or insect;

"Domestic Waste" means food waste and household materials targeted for disposal, other than paper or cardboard;

"Domestic Yard Waste Fire" means an open fire, other than a campfire or Recreational Fire that burns:

- a) vegetative debris where branches or other pieces of vegetative debris, with or without leaves, are no greater than 3 centimetres in diameter;
- (b) burns material in one pile not exceeding 1 metre in height and 1 metre in width; or
- (c) where an Incinerator is used;

"Fire Chief" means the person holding the position of Fire Chief for the District, or a person designated to act in the place of or on behalf of the Fire Chief;

"Fire Danger" means an assessment of fixed and changeable factors of the fire environment to determine the ease of ignition, rate of spread, difficulty of control and fire impacts;

"Fuel" means any organic matter, living or dead, in or on the ground, or in the air, that can ignite and burn;

"Incinerator" means a metal or masonry container that is used to contain and burn materials for the purposes of disposal that meets the standards of this bylaw;

"Open Burning" and **"Open Fire"** have the same meaning, referring to any outdoor burning, of any material that is not contained within a building or certified incinerator, and without limitation includes an Agricultural Purpose Fire, a Category 3 Open Fire, a Domestic Yard Waste Fire, and a Recreational Fire;

"Open Burning Smoke Control Regulation" means the Open Burning Smoke Control Regulation 152/2019 under the *Environmental Management Act*, SBC 2003, c. 53;

"Recreational Fire" means a campfire or other fire no larger than 0.5 meters high by 0.5 meters wide using clean, proper firewood for recreational purposes, including cooking or heating;

"Summer Season" means May 16th through October 15th of any calendar year;

"Vegetative Debris" means disturbed or undisturbed vegetative matter, with or without leaves, that is targeted for disposal;

"Ventilation Forecast" means the afternoon ventilation index forecast issued by Environment Canada for Southern Vancouver Island;

"Winter Season" means October 15th through May 15th of any calendar year;

- 2.2 Except as otherwise defined in this bylaw, words and phrases herein are to be interpreted consistently with the *Community Charter*, the *Open Burning Smoke Control Regulation* and the *Fire Services Act* or *Fire Safety Act*, as the context and circumstances may require. A reference to an Act refers to a statute of British Columbia unless otherwise indicated, and a reference to any statute,

regulation, code, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time.

SEVERABILITY and SCHEDULES

- 3.1 If any section, subsection, paragraph, clause, word or phrase in this bylaw is declared invalid by a court of competent jurisdiction, the invalid portion is severed and the remainder of this bylaw remains valid and effective.
- 3.2 Schedules A and B are attached to and form part of this bylaw.

GENERAL REGULATIONS

- 4.1 A person must not ignite, burn or continue to burn an open fire except in accordance with this bylaw, the *Open Burning Smoke Control Regulation*, and the *Wildfire Act* and Regulation. Where a provision of any such enactment is more strict than that of another, the stricter provision applies.
- 4.2 A person must not ignite, burn or continue to burn an open fire of any kind while a prohibition on open fire ordered by the Province or by the Fire Chief or other Officer of the Fire Department is in effect.
- 4.3 A person must not ignite, burn or continue to burn a Domestic Yard Waste Fire, an Agricultural Purpose Fire, or a Category 3 Open Fire, without first obtaining a permit issued by the Fire Chief, and then strictly in accordance with that permit and any direction by the Fire Chief further to the permit.

Fire Safety and Supervision

- 4.4 A person who ignites, burns or uses an open fire must ensure all of the following requirements are met:
- (a) the fire is authorized or permitted by the land owner;
 - (b) a fuel break is maintained around the burn area;
 - (c) the fire is watched and patrolled by a competent person to prevent fire spread or escape;
 - (d) the person watching the fire has a fire fighting tool, ready access to water, and a container carrying at least 8 litres of water;
 - (e) before leaving the area, the fire is completely extinguished; and
 - (f) if the fire spreads beyond the burn area or otherwise becomes out of control, it is immediately reported to the Fire Department and every step is taken to control the spread and extinguish the fire, and to comply with all directions of the Fire Chief.

Prohibited Materials

- 4.5 A person must not ignite or burn, or cause, allow or suffer to be burned or used as fuel, any of the following material, whether in an open fire or in an Incinerator or other container:
- (a) rubber, tires, plastic materials, or polystyrene foam;
 - (b) fiberglass or other fibre-reinforced materials;
 - (c) asphalt or asphalt products or tar paper;
 - (d) construction materials, drywall or demolition waste;
 - (e) carpets, furniture, appliances or domestic waste;

- (f) railway ties;
- (g) treated lumber or wood products;
- (h) manure, animal carcasses or waste from animal slaughtering;
- (i) paint, varnish, used oil, or fuel or lubricant containers;
- (j) batteries or electrical wire; or
- (k) biomedical or other hazardous waste.

Consideration of Neighbours

- 4.6 A person who starts or maintains an open fire or a fire within an Incinerator must ensure that any smoke, sparks, ash, soot, cinders or fumes emitted as a result of the fire do not cause or continue a nuisance or undue irritation or annoyance to persons at neighbouring properties or in the vicinity of the burn site.

Compliance with Orders

- 4.7 A person who has been ordered or directed by the Fire Chief or an authorized Member of the Fire Department to reduce, suspend or cease activity under this bylaw must immediately do so, and in a safe manner carry out all measures and comply with all conditions and restrictions for ceasing or resuming the activity as directed by the Fire Chief or Member.

Suppression Costs

- 4.8 Every person who ignites, burns, or maintains an open fire, or causes, suffers or allows an open fire to be ignited, burned or maintained, is responsible for that fire, and is liable for all costs and expenses incurred by the District in responding to that fire as may be required, including the actual cost to the District for supplying members of the Fire Department and equipment, according to the rates set out in the *Fees and Charges Bylaw*.

Recreational Fires

- 4.9 A person who ignites or burns a Recreational Fire is not required to obtain a permit under this bylaw, but must ensure the fire is situated at least 3 metres from any building, structure, fence, property line, tree, bush or other combustible material.

FIRES REQUIRING PERMITS

Domestic Yard Waste and Agricultural Purpose Open Fires

- 5.1 Before lighting or maintaining a Domestic Yard Waste Fire or an Agricultural Purpose Fire, a person must obtain a permit from the Fire Chief or authorized Member of the Fire Department, in the form set out in Schedule B, and must pay the applicable fees established in the *Fees and Charges Bylaw*.

- 5.2 A Domestic Yard Waste Fire or an Agricultural Purpose Fire is only permitted during the Winter Season.
- 5.3 Despite subsection 5.2, if the Fire Chief is satisfied as to the level of Fire Danger in relation to an application for an Agricultural Purpose Fire to allow the open burning of Diseased Vegetative Debris, a permit may be issued for that purpose outside of the Winter Season.
- 5.4 A person holding a permit for a Domestic Yard Waste Fire or an Agricultural Purpose Fire must ensure that:
- (a) in the case of a Domestic Yard Waste Fire, the fire is situated at least 7.5 metres from any building, structure, fence, property line, tree, bush or other combustible material;
 - (b) in the case of an Agricultural Purpose Fire, the fire is situated at least 15 metres from any building, structure, fence, property line, tree, bush or other combustible material
 - (c) the burn starts no earlier than one hour after sunrise;
 - (d) the burn is ended and fire extinguished by 4 p.m. or 2 hours before sunset, whichever is later, on the same day the burning starts;
 - (e) the ventilation forecast for 4pm on the day of the proposed burn must be Fair or Good; and
 - (f) all requirements and restrictions under the *Open Burning and Smoke Control Regulation* and the *Wildfire Act* and *Wildfire Regulation* that apply to the fire are met.

Category 3 Open Fire

- 5.5 Before lighting, igniting or maintaining a Category 3 Open Fire, a person must first obtain a permit from the Fire Chief or authorized Member of the Fire Department, in the form set out in Schedule A, and must pay the applicable fees established in the *Fees and Charges Bylaw*.
- 5.6 A Category 3 Open Fire is only permitted during the Winter Season.
- 5.7 A person holding a permit for a Category 3 Open Fire must ensure that all requirements and regulations under the *Open Burning Smoke Control Regulation* and the *Wildfire Act* that apply to that fire are met.

Incinerators

- 5.8 Before lighting, igniting or maintaining any fire in an Incinerator, a person must first obtain a permit in the form set out in Schedule B, issued by the Fire Chief or Officer of the Fire Department, and must pay the applicable fees established in the *Fees and Charges Bylaw*.
- 5.9 A permit for the use of an Incinerator will only be issued during the Winter Season.
- 5.10 A person who uses an Incinerator must ensure:
- (a) it is maintained in a condition that provides for the proper combustion of materials, and that it meets and displays a recognized certification marking indicating that it meets the safety standards of the Canadian Standards Association (CSA), the Underwriting Laboratories of Canada (ULC) or another recognized standard deemed acceptable to the Fire Chief;
 - (b) it is located at least 1.5 metres from any shrubbery, wooden fence or other combustible material, and at least 7.5 metres from any building; and
 - (c) it is installed and used in accordance with the manufacturer's instructions.

EXEMPTION

6.1 This bylaw does not apply to:

- (a) a fire used for the training of municipal firefighters;
- (b) a burn carried out by or under the direction of the Wildfire Service (British Columbia) pursuant to the *Wildfire Act*; or
- (c) a burn authorized by the Fire Chief to reduce fuel build-up or decrease Fire Danger.

POWERS OF THE FIRE CHIEF

7.1 The Fire Chief, or a Member of the Fire Department authorized by the Fire Chief may administer and enforce this Bylaw.

7.2 The Fire Chief, or a Member of the Fire Department authorized by the Fire Chief, may:

- (a) enter on property and inspect premises to ascertain whether the provisions of this bylaw are being met;
- (b) take measures to prevent or suppress the spread of Open Fires;
- (c) issue orders directing the owners or occupiers of premises to bring Open Fires into compliance with this bylaw or with a permit under this bylaw;
- (d) issue permits under this bylaw substantially in the form of Schedule A, and impose such conditions, restrictions and requirements as the Fire Chief or Member deems to be warranted in light of the application and related conditions and circumstances;
- (e) in writing, refuse to issue a permit, or suspend or cancel a permit, and impose conditions on resuming activity that was suspended, if:
 - i. the Fire Chief or Member believes the proposed or permitted activity cannot be or is not being carried out safely and in accordance with permit conditions, an order under paragraph (c), a provision of this bylaw, or another applicable enactment;
 - ii. the Fire Chief or Member has received a complaint by a person in relation to the emission of smoke, sparks, ash, soot, cinders or fumes, and considers that fire extinction or control measures are warranted to address a nuisance or undue irritation or annoyance to other persons;
- (f) authorize an Open Fire to reduce fuel build-up or decrease a Fire Danger;
- (g) restrict and prohibit any Open Fire, and impose a ban on all Open Fires for a period of time, if the Fire Chief or Member considers the Fire Danger warrants the restriction, prohibition or ban.

7.3 A person must not obstruct, prevent or interfere with the Fire Chief or a Member acting under the authority of the Fire Chief from conducting an inspection pursuant to this bylaw.

OFFENCE AND PENALTY

- 8.1 A person who:
- (a) contravenes this bylaw,
 - (b) causes or allows any act or thing to be done in contravention of this bylaw, or
 - (c) fails or neglects to do anything required under this bylaw,
- commits an offence, and where the offence is a continuing one, each day that the offence continues amounts to a separate offence.
- 8.2 A person found guilty of committing an offence under this bylaw is liable:
- (a) if proceedings are brought under the *Offence Act*, to pay a fine of up to \$50,000, and such other amounts as may be ordered by the court for the costs of investigation and prosecution, and to compensate the District or another person for damages or loss sustained resulting from the commission of the offence; or
 - (b) if a ticket is issued under the *Municipal Ticket Information System Bylaw*, to pay a fine of up to \$1,000.

REPEAL

- 9.1 The “Open Burning Regulation Bylaw No. 2009, 2019” is hereby repealed.

READ A FIRST TIME this 17th day of August, 2020.

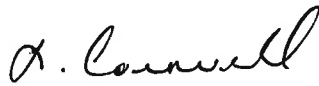
READ A SECOND TIME this 17th day of August, 2020.

READ A THIRD TIME this 17th day of August, 2020.

ADOPTED this 28th day of September, 2020.



Ryan Windsor
Mayor



Liz Cornwell
Corporate Officer

