

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2514

A Bylaw to regulate open burning, in order to reduce or eliminate the incidence of uncontrolled fires and the nuisance caused by the emission of smoke, in the fire protection areas of Electoral Areas "B" and "C"

WHEREAS the Regional District has, by bylaw, established the service of Fire Protection and Control within the B.X. / Swan Lake Fire Protection Service area and the Silver Star Village Fire Protection Service area (the "Electoral Areas "B" and "C" fire service areas");

AND WHEREAS the Regional District deems it to be in the public interest to establish regulations for outdoor (open air) burning in the Electoral Areas "B" and "C" fire service areas to control risk, reduce the nuisance of smoke emissions and improve air quality;

NOW THEREFORE, the Board of the Regional District of North Okanagan, in open meeting assembled enacts as follows:

CITATION

1. This Bylaw shall be cited as the "***Open Burning – Fire Regulation Bylaw No. 2514***".

REPEAL

2. Bylaw 1915, being "Open Burning – Fire Regulation Bylaw No. 1915, 2004" is hereby repealed.

DEFINITIONS AND INTERPRETATION

3.

(a) In this Bylaw:

"**Biomedical waste**" means any waste, which may present a threat of infection to humans, including, but not limited to, non-liquid human or animal tissue and body parts, discarded sharps, human blood, human blood products, laboratory waste, body fluids, and absorbent materials that include items such as bandages, gauze and sponges.

"**burn season**" means the period from October 31st in one calendar year to April 30th of the following calendar year.

"**Class 'A' Open Burning**" means open burning of debris piles with a diameter larger than three (3) meters but less than 10 meters, resulting from land cleared or partially cleared of vegetation to help prepare the land for a non-farming use, (e.g. farmland to residential, forest land to residential, forest land to open area or rural lands to subdivisions, etc.).

"**Class 'B' Open Burning**" means open burning of debris piles equal to or less than three (3) meters in diameter and two meters in height that do not result from land cleared or partially cleared of vegetation to help prepare the land for a different use.

"**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.

“construction waste” means any material resulting from, or produced by, the complete or partial construction of a structure, including, but not limited to, pipe, concrete, asphalt, roofing material, masonry, wire, treated wood, particle board, paint, drywall, tar, and asphalt products.

“debris” means dead vegetation debris that has been on the ground for less than 180 days.

“demolition waste” means any material resulting from or produced by the complete or partial destruction or tearing down of a structure.

“domestic waste” means household material and food waste, but does not include newspaper and cardboard.

“fire service area” means that part of Electoral Areas “B” and “C” included in the B.X. / Swan Lake Fire Protection Service area and that part of Electoral Area “C” included in the Silver Star Village Fire Protection Service area.

“hazardous waste” has the meaning prescribed in the Environmental Management Act.

“industrial/commercial waste” means any material resulting from, or produced by, any business, manufacturer, process, trade, market, or other undertaking.

“inspector” means a duly appointed bylaw enforcement officer, a peace officer, a Fire Chief or a designated member of a fire department.

“inversion” means a stable air mass where temperature increases with elevation and stagnant air remains near the surface.

“negatively impacting” or **“nuisance”** means the emission into the atmosphere of smoke from open burning which disturbs the comfort and convenience of the neighborhood or of persons in the vicinity.

“open air fire” or **“open burning”** means the outdoor combustion of permitted burning materials with or without control of the combustion air and without a stack or chimney to vent the emitted products of combustion to the atmosphere.

“permitted burning materials” means parts of trees or other vegetation that does not constitute compostable materials, including prunings, branches, trunks and tree stumps, that have been allowed to dry for at least one hundred and eighty (180) days.

“piled debris” means debris that has been piled and stacked on a parcel of land from which it originated for the purpose of disposal by open burning.

“prohibited materials” means materials that must not be open burned, including the following:

tires	treated lumber
plastics	railway ties
drywall	manure
demolition waste	rubber
domestic waste	asphalt
paint	asphalt products
hazardous waste	fuel and lubricant containers

recyclable paper
 construction waste
 tar paper
 green debris

recyclable cardboard
 industrial/commercial waste
 biomedical waste

“Regional Board” means the Board of the Regional District of North Okanagan.

“Regional District” means the Regional District of North Okanagan as described in its Letters Patent including the City of Armstrong, District of Coldstream, City of Enderby, Village of Lumby, Township of Spallumcheen, City of Vernon, and all Electoral Areas, but excluding lands located within a First Nations 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.

“small confined fire” means an open air fire that meets both of the following requirements:

- a. the open air fire is contained within a non-combustible base and edging and burns material in one pile no larger than 0.5 meters in height, 0.5 meters in width and 0.5 meters in length; and
- b. an open air fire which is lit, fuelled or used for the purpose of cooking food and/or to provide heat and light associated with camping or recreation.

“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.

“Special Open Burning” means the following:

- a. open burning of debris from land being cleared or partially cleared of vegetation to help prepare the land for a non-farming use with the use of an “air curtain incinerator” or other approved forced air assistance device,
- b. open burning for “farm practices” as defined in Right to Farm Regulations,
- c. open burning for forest, pest or disease control,
- d. open burning for fire hazard reduction within interface areas, or
- e. open burning on days other than what is permitted in section 5 subject to the review and approval of the inspector.

“ventilation index” means a measure of the atmosphere’s ability to disperse pollution as indicated by the forecast ventilation index prepared using Environment Canada data.

- (b) The headings contained in this Bylaw are for convenience only and are not to be construed as defining, or in any way limiting the scope or the intent of the provisions of this Bylaw.
- (c) If a division, section, subsection, sentence, clause, or phrase of this Bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portions of this Bylaw.

OPEN BURNING REGULATIONS AND PROHIBITIONS

4. Subject to this Bylaw, a person MUST NOT light, ignite or start, or allow, or cause to be lighted, ignited, or started an *open air fire*, including the use of an incinerator, burning barrel, or similar device, in the *fire service area*.

5. In addition to the requirements set out in s. 8, 9 and 10 of this Bylaw, a person may light, ignite or start, or allow, or cause to be lighted, ignited, or started, a Class 'A', Class 'B' or Special Open Burning fire in the fire service area for the burning of permitted burning material only, if:
- (a) the open burning is on land of 1.0 hectare (2.5 acres) or greater in size;
 - (b) where required pursuant to this Bylaw, the person responsible for the open burning has obtained a burning permit from the *Regional District*;
 - (c) the person responsible has verified that the Ventilation Index is in the "good" range on the day of the proposed burn by either phoning the Regional District office, phoning the toll free information line provided by the Ministry of Environment, or checking the Regional District's website at www.rdno.ca ;
 - (d) the material to be open burned is located on the parcel of land from which it originated;
 - (e) there are no prohibited materials included with the materials to be burned;
 - (f) every reasonable alternative for reducing, reusing, or recycling has been pursued to minimize the amount of permitted burning materials to be open burned;
 - (g) an open fire restriction order issued by the agency responsible for Forest Service in British Columbia is not in effect;
 - (h) no additional materials are added to the open air fire after 5:00 pm of each day of the fire; and
 - (i) the open air fire is continuously controlled and supervised by a competent person until such fire is completely extinguished before the person leaves the area. The competent person shall ensure that sufficient material, water, equipment and labor are present on site to effectively maintain control over the fire and prevent the same from spreading, causing damage or becoming dangerous to life or to other property or becoming a nuisance.

SMALL CONFINED FIRES

6. Small confined fires are permitted provided that all of the following conditions are met:
- (a) the property owner has granted permission for the small confined fire;
 - (b) the small confined fire occurs only between 6 a.m. and 12 a.m. (midnight);
 - (c) an open fire restriction order issued by the agency responsible for Forest Service in British Columbia is not in effect;
 - (d) the small confined fire is not located within 5 meters from adjoining property lines and buildings, or 3 meters from any combustibles;
 - (e) the small confined fire is controlled such that sparks, ash, or cinders are prevented from igniting other combustible materials;
 - (f) the small confined fire is maintained so as not create a nuisance to the neighbourhood or persons in the vicinity; and

- (g) the small confined fire is continuously controlled and supervised by a competent person equipped with extinguishing equipment and material, and must be completely extinguished before the person leaves the area.

EXEMPTIONS

- 7. Nothing in section 4 prohibits any of the following:
 - (a) a small confined fire;
 - (b) a small confined fire within a commercial campground; or
 - (c) burning for fire practices by a fire department established under a Bylaw or training conducted at the North Okanagan Fire Training Centre.

BURNING CLASS REGULATIONS

- 8. Class 'A' Open Burning
 - (a) No person shall light, ignite or start, or allow, or cause to be lighted, ignited, or started a Class 'A' Open Burning fire without first obtaining a Class 'A' Open Burning Permit.
 - (b) Class 'A' Open Burning shall only be permitted during the burn season.
 - (c) Class 'A' Open Burning shall only be permitted on a property following an inspection by an inspector.
 - (d) Class 'A' Open Burning shall be set back from residences and businesses, school grounds, hospitals and community care facilities at least the distances specified in the Province of British Columbia's "Open Burning Smoke Control Regulation".
 - (e) Class 'A' Open Burning fires may be maintained for a maximum of three consecutive days and only if they do not negatively impact persons in the vicinity.
- 9. Class "B" Open Burning
 - (a) No person shall light, ignite or start, or allow, or cause to be lighted, ignited, or started a Class 'B' Open Burning fire without first obtaining a written Class 'B' Open Burning Permit.
 - (b) Class 'B' Open Burning shall only be permitted during the burn season.
 - (c) Class 'B' Open Burning shall be set back a minimum of 10 meters of any building, structure, fence, tree or hedge.
 - (d) Class 'B' Open Burning shall not burn continuously for more than twelve (12) hours.
- 10. Special Open Burning
 - (a) No person shall light, ignite or start, or allow, or cause to be lighted, ignited, or started a Special Open Burning fire without first obtaining a written Special Open Burning Permit.

- (b) Special Open Burning shall only be permitted on a property following an inspection by an inspector.
- (c) Special Open Burning shall be set back from residences and businesses, school grounds, hospitals and community care facilities at least the distances specified in the Province of British Columbia's "Open Burning Smoke Control Regulation".
- (d) Special Open Burning fires may be maintained for a maximum of three consecutive days and only if they do not negatively impact persons in the vicinity.

BURNING PERMITS

11. The following applies to all burning permits required by or issued under this Bylaw:
- (a) The person to whom the burning permit has been issued shall make the burning permit available for inspection by the inspector, upon request, at the site that the burning is carried out;
 - (b) No person shall ignite or maintain a fire under authority of a burning permit except on the parcel of land for which the burning permit was issued;
 - (c) The inspector has the authority to restrict, suspend, withhold or cancel any burning permit issued where, in his opinion, igniting or maintaining a fire in any area may create a fire hazard or increase the danger of fire to persons or property or may create a nuisance; and
 - (d) Any burning permit issued by the Regional District shall be in writing and is valid only for the purpose stated and for the period set out in the burning permit.
12. A burning permit provides for the open burning of permitted materials only.

FEES

13. A person applying for a Class "A" Open Burning Permit shall pay the fees established in Schedule "A" attached to and forming part of this Bylaw.
14. A person applying for a Class "B" Open Burning Permit shall pay the fees established in Schedule "A" attached to and forming part of this Bylaw.
15. A person applying for a Special Open Burning Permit shall pay the fees established in Schedule "A" attached to and forming part of this Bylaw.

SMOKE DISPERSION – WEATHER CONDITIONS

16. Notwithstanding the provisions of Section 4, open burning must not be initiated or new material must not be added to the open burn if any one or more of the following applies:
- (a) the ventilation index is not rated as good;
 - (b) weather conditions on the site where the open burning is to take place are not suitable to provide rapid dispersion of the smoke emissions to the atmosphere so as not to negatively impact on a nearby population;
 - (c) an inversion forms, trapping smoke near the surface which negatively impacts a nearby population; or

- (d) wind conditions are such that sparks, ash, or cinders may cause the fire to spread beyond the controlled area of the open burning.

INSPECTIONS AND ORDERS

- 17. An inspector of the Regional District is authorized to enter onto and into property for the purposes established by the Local Government Act or Community Charter, including sections 268 and 314.1(2) of the Local Government Act, in accordance with subsections 16(1) to (5) of the Community Charter or any other conditions of entry set out in the Local Government Act, Community Charter or other applicable enactment.
- 18. An inspector may order the extinguishing of any open burning or open air fire that is in violation of this Bylaw.
- 19. If, in the opinion of the inspector, the open burning or open air fire poses danger to persons, structures, or other properties, or smoke emission is negatively impacting a nearby population, the inspector may:
 - (a) order the open burning or open air fire to be extinguished, or
 - (b) order that no additional permitted burning material be added to the fire.
- 20. No person shall interfere with or obstruct an inspector in carrying out his/her duties pursuant to this Bylaw.

SERVICE OF ORDERS

- 21. An order made under this Bylaw shall be served by:
 - (a) delivering it or causing it to be delivered to the person to whom it is directed; or
 - (b) sending the order by return registered mail to the last known owner of the land to which the order applies.

COST RECOVERY

- 22. Where an owner or occupier is in default of an order made pursuant to this Bylaw, the Regional District, by its workers or other third party, may enter the property and effect such work as required in the order at the expense of the owner or occupier so defaulting, in accordance with section 269 of the Local Government Act or other applicable section, and any charges so incurred and remaining unpaid on December 31 of that year shall be added to and form part of the taxes payable on the real property as taxes in arrears.

OFFENCES AND PENALTIES

- 23. No person shall do any act or permit any act or thing to be done in contravention of this Bylaw.
- 24. Every person who violates any provision of this Bylaw, or who permits an act or thing to be done in contravention of this Bylaw, or who fails to do any act or thing required by this Bylaw, shall be deemed to have committed an offence against this Bylaw and:
 - (a) Shall be liable to a fine of not less than \$50.00 and not greater than \$2,000.

- (b) Shall be liable, upon summary conviction, to the penalties provided under the Offence Act; or
 - (c) Any combination of the above.
25. Each day that an offence against this Bylaw continues shall be deemed a separate and distinct offence.
26. For the purposes of s. 24(a) a ticket may be issued, or an information may be laid by the Inspector for the following offences:

	Authorized Expression	Section No.
(a)	Burning when prohibited	4
(b)	Burning when the venting is not "good"	5(c) and 16
(c)	Burning materials from another property	5(d)
(d)	Burning prohibited materials	5(e)
(e)	Failure to control/supervise	5(i), 6(e), 6(f) and 6(g)
(f)	Adding material to fire after 5:00 PM	5(h)
(g)	Class 'A' Burning without a permit	8(a)
(h)	Class 'B' Burning without a permit	9(a)
(i)	Special Open Burning without a permit	10(a)
(j)	Burning without sufficient set back	8(d), 9(c), 10(c) and 6(d)
(k)	Burning at non-permitted time of day	6(b)
(l)	Burning that disturbs	7(c)
(m)	Failure to extinguish	18 and 19
(n)	Obstruct an inspector	20

Read a First, Second, and THIRD Time

this 21st day of September, 2011

ADOPTED

this 21st day of September, 2011



Chair
HERMAN HALVORSON
CHAIR



Christy Malden Officer
Deputy Corporate Officer

Schedule 'A'

Administration Fees:

Class 'A' Burning Permit	\$1,000.00
Class 'B' Burning Permit	No Charge
Special Open Burning Permit.....	\$25.00

Inspection Services

Class 'A' Burning and Special Open Burning Site Inspection	
up to three (3) piles.....	\$100.00
more than three (3) piles	\$25.00 per each additional pile