

# TOWN OF SMITHERS

## WOOD BURNING APPLIANCE SMOKE CONTROL

### BYLAW NO. 1520

*A Bylaw to regulate Wood Burning Appliances and the fuels used in order to enhance air quality within the Town of Smithers*

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**WHEREAS** the Council of the Town of Smithers has the authority, pursuant to the Community Charter, to regulate in regard to the protection, promotion or preservation of the health of individuals and the maintenance of sanitary conditions in the municipality;

**AND WHEREAS** in June 2000, the Canadian Council of Ministers of Environment (CCME), except Quebec, adopted the Canada-wide Standards for Particulate Matter (PM2.5) and Ozone;

**AND WHEREAS** research indicates that wood smoke is a significant contributor to PM2.5 levels, which pose significant health risks;

**NOW THEREFORE**, the Municipal Council of the Town of Smithers, in open meeting assembled, enacts as follows:

#### 1. CITATION

This bylaw may be cited as “Smithers Wood Burning Appliance Smoke Control Bylaw No. 1520” and comes into effect upon adoption.

#### 2. DEFINITIONS

In This Bylaw:

***Air Quality Advisory*** means a public health warning issued by the Ministry of Environment in conjunction with Northern Health through local communications media.

***Canadian Standard*** means the “Performance Testing of Solid-Fuel Burning Stoves, Inserts, and Low Burn Rate Factory Built Fireplaces”, CAN/CSA-B415.1 standard published by the Canadian Standards Association as amended from time to time.

***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 Town of Smithers Director of Development Services, Chief Fire Prevention *Officer* (Fire Chief), or Deputy Fire Chief, or appointed designates thereof.

***Outdoor solid-fuel combustion appliance*** means an outdoor wood burning appliance or a solid fuel burning appliance, which is used for the space heating of

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buildings, the heating of water or other such purpose and which is located in a separate building or on the exterior of the building which it serves. These appliances are also referred to as Outdoor Hydronic Heaters.

**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.

**Pellet Stove** means a stove designed and used exclusively for the combustion of wood pellets having a maximum length of 2.5 cm in any dimension, and meeting the particulate emission requirements of the Canadian Standard or the U.S. Standard.

**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*. In the case of seasoned wood, this shall mean wood that has a moisture content of less than 20 percent.

**Prohibited Burning Materials** means waste material including mixed solid waste (garbage), demolition, renovation or construction waste material, tires, coal, plastics, drywall, domestic 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.

**US Standard** means the New Source Performance Standards, Title 40, Part 60, Subpart AAA of the Code of Federal Regulations (USA) (7-1-92 Edition), published by the United States Environmental Protection Agency.

**Wood Burning Appliance** - means a fireplace, woodstove, central furnace or similar device, other than a *Pellet Stove* or *Outdoor solid-fuel combustion appliance* installed in or about any premises, in which wood is burned and which discharges combustion products to the air.

### 3. FUELS

Only *Permitted Wood Burning Appliance Fuels* shall be used in a *Wood Burning Appliance*. At no time may *Prohibited Burning Materials* be used in a *Wood Burning Appliance*.

### 4. WOOD BURNING APPLIANCE INSTALLATION

- a) No person shall install a *wood burning appliance* in or about any premises unless the appliance is certified to the *Canadian Standard* or the *US Standard*.
- b) No person shall install an *outdoor solid-fuel combustion appliance* in or about any premises.

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- c) For all new construction, the building shall contain an alternate form of space heating, including natural gas, propane, electric, oil, solar, kerosene, or other sufficient to meet necessary space heating requirements so that during episodes of high pollution levels, the *occupant* will be able to heat the home other than with a *wood burning appliance*.
  - d) Central wood heating systems able to demonstrate very low emissions (e.g., < 20 % of the CSA B415.1 limit) are exempted from 4(a) and 4(b).
  - e) All installations are subject to permit requirements as per Building Bylaw 1435.

#### 5. NON-CERTIFIED APPLIANCE REMOVAL

- a) The Town of Smithers is hereby authorized to establish a removal program for non-certified *wood burning appliances* that may incorporate incentives for energy conservation and air quality improvement including, but not limited to, household insulation, insulating products, non-certified wood stove replacement and substitution of heating methods and appliances, including certified *wood burning appliances*.
- b) Any non-certified *wood-burning appliance* removed under this section shall be rendered permanently inoperable.
- c) All non-certified *wood burning appliances* within the Town of Smithers shall be replaced or removed from all properties by the target date of December 31, 2010 and rendered permanently inoperable.
- d) Prior to the completion or consummation of a sale or transfer of any real property on or after January 1, 2007, all existing non-certified *wood burning appliances* located on the property shall be replaced or removed and rendered permanently inoperable by the target date of December 31, 2010.

#### 6. WOOD BURNING RESTRICTIONS

- a) No *person* shall use a *wood-burning appliance* at any time when an *air quality advisory* is in effect, except to heat premises that are equipped with no heating appliance or facilities other than the *wood burning appliance*.
- b) No *person* shall operate a *wood burning appliance* in such a manner as to discharge air contaminants that are likely to cause or significantly contribute to the cause of injury or damage to human health, plant or animal life or property.

#### 7. INSPECTION AND ORDERS:

- 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.

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- 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 *Officer's* order to extinguish a fire which is in violation of this bylaw, the *Officer* may cause the fire to be extinguished.

**8. COST RECOVERY:**

- a) An *Owner* or *Occupant* responsible for the use of a *wood burning appliance* shall be responsible for all costs and expenses resulting from extinguishment of the fire authorized by an *Officer* under Section 7(e).
- b) In the event that an *Owner* or *Occupant* fails to pay the costs for which he or she is responsible under section 8(a) before the 31<sup>st</sup> day of December in each year in which the non-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*.

**9. OFFENCES AND PENALTIES**

Any person who violates any of the provisions of this Bylaw, or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who refuses, omits or neglects to fulfill, observe, carry out, or perform any duty or obligation imposed by this Bylaw, commits an offence and is liable, upon summary conviction, to a fine of not more than \$10,000.00 for each offence.

**10. SEVERABILITY**

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, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remaining portions of this bylaw.

**11. LIABILITY**

- a) This bylaw shall not create a duty of the Town of the Smithers, its *officers*, employees, inspectors or person acting on its behalf pursuant to this bylaw concerning enforcement or failure to enforce any matter contained in this bylaw.

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- b) No act, error, omission or other neglect of the Town of the Smithers 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 THIS 11<sup>TH</sup> DAY OF JULY, 2006.

READ A SECOND TIME THIS 11<sup>TH</sup> DAY OF JULY, 2006.

READ A THIRD TIME THIS 11<sup>TH</sup> DAY OF JULY, 2006.

THIRD READING RESCINDED THIS 25<sup>TH</sup> DAY OF JULY, 2006

RE-READ A THIRD TIME THIS 25<sup>TH</sup> DAY OF JULY, 2006

ADOPTED BY TOWN COUNCIL THIS 8<sup>TH</sup> DAY OF AUGUST, 2006.

The Corporate Seal of the Town of Smithers  
was hereto affixed in the presence of:

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James A. Davidson  
Mayor

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Wallace Mah  
Corporate Administrator (CAO)

**CERTIFIED A TRUE AND CORRECT COPY**  
of Bylaw No. 1520 cited as "Wood  
Burning Appliance Smoke Control  
Bylaw No. 1520"

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Wallace Mah  
Corporate Administrator (CAO)

MA/lp