



# **COWICHAN VALLEY REGIONAL DISTRICT**

## **Bylaw No. 2020 (As Amended by Bylaw No. 3322)**

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### **CVRD BYLAW NO. 2020**

#### **- LANDCLEARING MANAGEMENT REGULATION BYLAW, 2009**

#### **CONSOLIDATED FOR CONVENIENCE ONLY (March 30, 2010)**

The amendment bylaw(s) listed below have been incorporated into enactment Bylaw No. 2020 for convenience purposes only. Persons making use of the consolidated version of Bylaw No. 2020 are advised that it is not a legal document and that for the purpose of interpreting and applying the law, the original bylaw(s) must be consulted. Certified copies of original bylaws are available through the Corporate Secretary's office.

#### **AMENDMENT BYLAW**

**Bylaw No. 3322**

#### **EFFECTIVE DATE**

**February 10, 2010**



## COWICHAN VALLEY REGIONAL DISTRICT

### Bylaw No. 2020 - Consolidated for Convenience with Amending Bylaw No. 3322

#### A Bylaw to Regulate Management of Landclearing Debris for the Purposes of Pollution Control in the Cowichan Valley Regional District

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**WHEREAS** the Board of the Cowichan Valley Regional District established the service of control and regulation of air pollution under the provision of CVRD Bylaw No. 3258, cited as “CVRD Bylaw 3258 – Air Pollution Control Service Establishment Bylaw, 2009”, for the control and regulation of pollution, nuisances, unwholesome or noxious materials, odours and disturbances within the electoral areas of the Cowichan Valley Regional District;

**AND WHEREAS** the Cowichan Valley Regional District is operating under a Solid Waste Management Plan that identifies the regulated management of *Landclearing Debris* as key to the reduction of local air pollution;

**AND WHEREAS** the Cowichan Valley Regional District wishes to address the concerns of residents whose health and well-being are adversely affected by smoke pollution;

**NOW THEREFORE** the Cowichan Valley Regional District, enacts as follows:

#### 1. **CITATION:**

This bylaw may be cited for all purposes as “**CVRD Bylaw No. 2020 – Landclearing Management Regulation Bylaw, 2009**”.

#### 2. **DEFINITIONS:**

“*Air Curtain Burner*” is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber, or earthen pit or trench made to function as the Fire Box, with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a re-circulating motion of air under the curtain;

“*Bylaw Enforcement Officer*” means the person designated by the Board to administer and enforce bylaws within the Cowichan Valley Regional District;

“**Composite Woodwaste**” means wood that has been manufactured into dimensional lumber using glue and/or adhesives, such as particle board, strand board, plywood etc.;

“**Fire Chief**” means the highest ranking person in charge of the fire department in the jurisdiction where the **Open Burning** is occurring, or their authorized designate;

“**Heavy Equipment**” includes, but is not limited to, machines such as: backhoes, bulldozers, excavators, skid-steers, or tractors;

“**Landclearing Debris**” means any stumps, root mats, branches, brush, logs, or vegetation, but does not include **Composite Woodwaste**;

“**Local Assistant**” means a member of a fire department who is appointed under the *Fire Services Act* as a local assistant to the Fire Commissioner, in addition to the **Fire Chief** of that department;

“**Machine-piled**” means **Landclearing Debris** that has been piled or stacked by **Heavy Equipment**;

“**Open Burning**” means the combustion of material with or without control of the combustion air and without a stack or chimney to vent the emitted products of combustion to the atmosphere;

“**Operator Certification**” means that the operator of the **Air Curtain Burner** has received certification in the safe and efficient maintenance and operation of **Air Curtain Burners** from a manufacturer of **Air Curtain Burners**;

“**Parcel of Land**” includes any contiguous land with the same owner;

“**Regulated Quantities**” means a quantity of **Landclearing Debris** in an amount equivalent to or greater than the following:

- a) three or more piles each not exceeding 2 m in height and 3 m in width;
- b) one or more piles each exceeding 2 m in height or 3 m in width;
- c) in one or more windrows;

but does not include stubble or grass.

“**Smoke**” means the gases, particulate matter and products of combustion emitted into the atmosphere when debris is subjected to **Open Burning**;

### **3. APPLICATION**

- 1) This bylaw applies to the Cowichan Valley Regional District Electoral Areas: A - Mill Bay/Malahat; B - Shawnigan Lake; C - Cobble Hill; D - Cowichan Bay; E - Cowichan Station/Sahtlam/Glenora; F - Cowichan Lake South-Skutz Falls; G – Saltair/Gulf Islands; H - North Oyster Diamond and I - Youbou/Meade Creek; except - that part of Electoral Area G located within the boundaries of the Thetis Island Improvement District.

- 2) Subject to subsection 3 (3), this bylaw applies to:
  - a) *Machine-piled Landclearing Debris*;
  - b) *Regulated Quantities of Landclearing Debris*.
- 3) This bylaw does not apply to:
  - a) persons carrying out “normal farm practices” within the meaning of the *Farm Practices Protection Act* (British Columbia);
  - b) a “forest practice” as defined by the *Forest and Range Practices Act* (British Columbia); and
  - c) lands classed as Property Assessment Class 7 by the *BC Assessment Authority*.

#### **4. GENERAL REGULATIONS**

- 1) No person shall cause or permit *Smoke* from the disposal of *Landclearing Debris* except in accordance with the following regulations:
  - a) Subject to subsection 3 (2), an *Air Curtain Burner* shall be used for all *Open Burning of Landclearing Debris*;
  - b) The use of an *Air Curtain Burner* for the disposal of *Landclearing Debris* must be registered with the Cowichan Valley Regional District Public Safety Department prior to the commencement of disposal activities, in accordance with Schedule A of this bylaw;
  - c) An operating *Air Curtain Burner* shall be supervised at all times by a person who has received *Operator Certification*;
  - d) Only *Landclearing Debris* shall be burned in an *Air Curtain Burner*.
- 2) Nothing in this bylaw shall be interpreted as relieving a person from complying with
  - a) federal, provincial and local government regulations governing the various means of disposal of *Landclearing Debris*;
  - b) local fire restrictions established by a *Fire Chief* or *Local Assistant* or other person or authority having jurisdiction to control or prohibit *Open Burning*.

#### **5. INSPECTIONS, ORDERS AND REMEDIAL ACTION**

- 1) A *Bylaw Enforcement Officer* is authorized at all reasonable times to enter onto any property for the purposes established by 268 and 314.1 of the *Local Government Act*, and any other authority to enter property granted in the *Local Government Act*, the *Community Charter* or another *Act* in accordance with subsections 16(1) to (5) of the *Community Charter* or other conditions of entry if any, set out in the *Local Government Act*, the *Community Charter*, or another *Act*.

- 2) If, in the opinion of a *Bylaw Enforcement Officer* or a *Fire Chief*, pollution is occurring from the *Open Burning* of *Landclearing Debris*, the *Bylaw Enforcement Officer* or *Fire Chief* may:
  - a) require that the *Open Burning* cease immediately;
  - b) require that no further material be added to the fire;
  - c) by public notice or written instruction, or both, order that the *Open Burning* be suspended on a *Parcel of Land* for a period not to exceed one month in duration;
  - d) require the owner or person carrying out the burning to take whatever actions or measures they consider necessary to combat, control, or suppress the *Open Burning*.
- 3) An owner or occupier of real property shall eliminate the contaminating of the atmosphere through the emission of *Smoke* where the *Smoke* results from the disposal of *Landclearing Debris* contrary to this bylaw.
- 4) Where an owner or occupier fails to comply with a requirement under subsection (2) or (3), the Cowichan Valley Regional District may carry out the required action in accordance with section 269 of the *Local Government Act*.

## 6. OFFENCE

- 1) 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 or omits or neglects to fulfill, observe, carry out or perform any duty imposed by this bylaw, shall be liable, on summary conviction, to a fine not exceeding Two Thousand Dollars (\$2,000.00).
- 2) Each day on which a contravention of this bylaw occurs constitutes a separate offence.

## 7. SEVERABILITY

- 1) 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 this bylaw.

**8. FORCE AND EFFECT**

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME THIS 12<sup>th</sup> day of August, 2009.

READ A SECOND TIME THIS 12<sup>th</sup> day of August, 2009.

READ A THIRD TIME THIS 12<sup>th</sup> day of August, 2009.

ADOPTED THIS 12<sup>th</sup> day of August, 2009.

Gerry Giles  
Chairperson

Joe E. Barry  
Corporate Secretary