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BYLAW NO. 4489

A BYLAW TO REGULATE OPEN BURNING WITHIN JUAN DE FUCA ELECTORAL AREA AND SOUTHERN GULF ISLANDS ELECTORAL AREA

**Consolidated for Public Convenience
(This Bylaw is for reference purposes only)**

ORIGINALLY ADOPTED

(Consolidated with Amending Bylaw 4758)

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4489**

**A BYLAW TO REGULATE OPEN BURNING WITHIN JUAN DE FUCA ELECTORAL AREA
AND SOUTHERN GULF ISLANDS ELECTORAL AREA**

WHEREAS:

- A. By Bylaw No. 3452, "Fire Regulation Bylaw No. 1, 2007", the Capital Regional District continued a program of fire regulation in the district pursuant to its powers under the *Local Government Act*; and
- B. The Capital Regional District Board wishes to enact a revised bylaw that relates to the lighting, fuelling and use of open fires for fire prevention and forest protection in the Juan de Fuca and Southern Gulf Islands Electoral Areas where local fire services are operated;

NOW THEREFORE the Regional Board of the Capital Regional District in open meeting assembled enacts as follows:

PART I – DEFINITIONS:

- 1. In this Bylaw:
 - a. "*BC Wildfire Act*" or "*Wildfire Act*" refers to the *Wildfire Act*, SBC 2004, c 31 as amended.
 - b. "BC Wildfire Regulation" refers to *Wildfire Regulation*, BC Reg 38/2005, as amended and enacted under the *Wildfire Act*, SBC 2004, c 31.
 - c. "BC Wildfire Service" means that part of the government of British Columbia that is mandated to administer the *BC Wildfire Act* and BC Wildfire Regulation.
 - d. "Campfire" is defined by the BC Wildfire Regulation as amended from time to time.
 - e. "Category 2 Open Fire" is defined by the BC Wildfire Regulation as amended from time to time.
 - f. "Category 3 Open Fire" is defined by the BC Wildfire Regulation as amended from time to time.
 - g. "Coastal Fire Centre – South Island" means fire centre created by the BC Wildfire Service to administer the *BC Wildfire Act* and BC Wildfire Regulation within the Regional District.
 - h. "Commercial Incinerator" means any device constructed or erected, designed and used for the destruction by fire of industrial, commercial or institutional waste materials, but does not include any crematorium operated in accordance with the *Cremation, Interment and Funeral Services Act*, SBC 2004, c.35.

- i. "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*.
- j. "Domestic Waste" means food waste and household materials targeted for disposal, other than paper or cardboard.
- k. "Domestic Incinerator" means any metal or masonry container, including a burn barrel, fitted with a metal screen or grill of not more than 9.5 millimetres (3/8") mesh to restrict any sparks or flying debris and used to serve any dwelling unit occupied by a single family or any two-family dwelling.
- l. "Fire Chief" means the Fire Chief for the applicable Service Area or the Fire Chief's designate.
- m. "Fire Chief's Designate" means a member of the fire department designated by the Fire Chief and acting on the authority of the Fire Chief in the absence of, or as directed by, the Fire Chief.
- n. "Fire Danger Rating" for a Service Area is as defined by the Coastal Fire Centre – South Island from time to time.
- o. "Fire Department" means the volunteer fire department established for a Service Area by bylaw of the Regional District or by agreement between the Regional District and a duly incorporated society that by contract provides fire service within a Service Area.
- p. "Fire Fighting Hand Tool" means a shovel, axe, Pulaski, hand tank pump or fire extinguisher.
- q. "Fuel Break" means a barrier or a change in fuel type or condition, or a strip of land that has been modified or cleared to prevent fire spread.
- r. "Incinerator" includes a Commercial Incinerator and a Domestic Incinerator.
- s. "Industrial activity" is as defined by the *BC Wildfire Act* as amended from time to time.
- t. "Mill waste" includes bark, chips, sawdust and any other discarded wood products piled for uses other than residential gardens, parks, trails and playgrounds.
- u. "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 a Category 2 Open Fire, a Category 3 Open Fire, and a Campfire.
- v. "Open Burning Smoke Control Regulation" means the *Open Burning Smoke Control Regulation*, BC Reg 152/2019, as amended, under the *Environmental Management Act*.
- w. "Regional District" means the Capital Regional District.

- x. "Service Area" means a fire protection and suppression service area within the Regional District established under the *Local Government Act*.
 - y. "Solid Fuel Burning Appliance" means an appliance installed outside of a dwelling unit that burns solid fuel and is used for cooking or heating purposes. These appliances include, but are not limited to, barbecues, chimineas, pizza ovens, hot tubs, food smokers, or any other devices, that burn solid fuel in an outdoor environment.
 - z. "Utility" means the works or facilities for the provision of a service provided by a public authority, a public utility or a similar person, such as water, electricity, natural gas, septic, transportation or communication.
 - aa. "Waste" means as defined by the *Environmental Management Act* as amended from time to time.
- 1.2 Except as otherwise defined in this Bylaw, words and phrases herein are to be interpreted consistently with the *Community Charter*, the *Local Government Act*, the *Open Burning Smoke Control Regulation* and the *Fire Services Act* or *Fire Safety Act*, as the context and circumstances may require.

PART II - APPLICATION

2. This Bylaw applies within Service Areas of the Regional District.

PART III – SEVERABILITY

3. 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.

PART IV - GENERAL REGULATIONS

(Bylaw 4758)

General Regulations on Open Fires

- 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 enactments is stricter than that of another, the stricter provision applies.
- 4.2
- a) No person shall ignite, burn or continue to burn an Open Fire of any kind while a prohibition on Open Fires or the category of Open Fire ordered by the Province or by the Fire Chief or other Officer of the Fire Department for the Service Area is in effect.
 - b) No person shall ignite, burn or continue to burn an Open Fire without a valid and continuing permit issued by the Fire Chief or the Fire Chief's Designate.
 - c) A person must comply with the terms of any permit and any direction by the Fire Chief written on or further to the permit, or any further restriction on the fire imposed under section 7 of this Bylaw.

- d) If a permit is cancelled, expires, or is not complied with, a person must not ignite, burn, or continue to burn an Open Fire and must extinguish such Open Fire forthwith.
- e) Prior to igniting an Open Fire, undertaking an Industrial Activity, using a Solid Fuel Appliance or igniting a fire in an Incinerator, the person must determine whether there are any restrictions or prohibitions issued under section 7 of this Bylaw.

Permit Requirements for the Categories of Open Fires

- 4.3
- a) A Campfire does not require a permit, unless a Fire Chief or Fire Chief's designate invokes a permit requirement.
 - b) A Category 2 Open Fire requires a permit, unless a Fire Chief or Fire Chief's designate rescinds the permit requirement.
 - c) A Category 3 Open Fire requires a permit year round.

Fire Safety and Supervision

- 4.4 Every person who ignites, burns or uses an Open Fire must ensure all of the following requirements are met:
- (a) the person must comply with any and all requirements of this Bylaw that pertain to the Open Fire;
 - (b) the person must comply with any and all requirements contained in any permit issued for the Open Fire under this Bylaw;
 - (c) the person must comply with any further restrictions on Open Fires and the relevant category of Open Fire issued by the Fire Chief;
 - (d) the person must ensure that the fire is authorized or permitted by the land owner, and if the person is not the owner of the land where the fire is to occur, the person must provide proof to the Fire Chief's satisfaction of the land owner's consent;
 - (e) the person must maintain an adequate Fuel Break around the burn area of sufficient size to ensure that the Open Fire originating in the burn area does not escape the burn area;
 - (f) the person must ensure that the fire is watched and patrolled by a competent person to prevent fire spread or escape;
 - (g) the person must ensure that the person watching the fire has a Fire Fighting Tool, ready access to water, and a container carrying at least 8 litres of water;
 - (h) the person must ensure that before leaving the area, the fire is completely extinguished; and
 - (i) if the fire spreads beyond the burn area or otherwise becomes out of control, the person must immediately report the fire to the Fire Department; attempt to control the spread and to extinguish the fire, and comply with all directions of the Fire Chief.

Prohibited Materials

- 4.5 No person shall 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.

Compliance with Orders

- 4.6 A person who has been ordered or directed by the Fire Chief or the Fire Chief's Designate 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 the Fire Chief's Designate.

PART V – ADDITIONAL REGULATIONS FOR CATEGORIES OF OPEN FIRES, SOLID FUEL APPLIANCES, INCINERATORS, INDUSTRIAL ACTIVITIES AND MILL WASTE**Campfires**

- 5.1 In addition to complying with the general regulations on Open Fires contained in this Bylaw, a person who lights, ignites or maintains a Campfire must ensure the Campfire burns material in one pile no larger than 0.5 m in height and 0.5 m in width.
- 5.2 A person must not light, ignite or maintain a Campfire:
- (a) within 7.5 metres of any building, structure, fence, property line;
 - (b) within 3 metres of any driftwood, dry vegetation, grass or any other combustible material;
 - (c) to dispose of Domestic Waste; or

- (d) if a Campfire prohibition has been established by the Fire Chief or the Fire Chief's Designate.

Category 2 Open Fires

5.2.2 In addition to complying with the general regulations on Open Fires contained in this Bylaw, no person shall conduct a Category 2 Open Fire:

- (a) within 10 metres of any property line, building, structure, fence, tree or hedge;
(Bylaw 4758)
- (b) that is fuelled by green debris or leaves;
- (c) for more than 4 consecutive days; or
- (d) by adding additional materials to a fire within two (2) hours of sunset of each day of the fire.

Category 3 Open Fires

5.2.3 For certainty before lighting, igniting or maintaining a Category 3 Open Fire, a person must comply with the general regulations on Open Fires contained in this Bylaw.

Category 3 Open Fires – Exemption from the Open Burning Smoke Control Regulation

5.2.4 Where a Category 3 Open Fire is for burning vegetative debris less than 10 cm in diameter as defined in section 5(a) of the *Open Burning Smoke Control Regulation*, no person shall conduct such open fire:

- (a) within 15 metres of any property line, building, structure, fence, tree or hedge;
(Bylaw 4758)
- (b) that is fuelled by green debris or leaves;
- (c) for more than 4 consecutive days; or
- (d) by adding additional materials to a fire within two (2) hours of sunset of each day of the fire.

Solid Fuel Appliances

5.3 Before installing, erecting, or operating a Solid Fuel Burning Appliance, a person must first obtain a permit issued by the Fire Chief or Fire Chief's Designate, and must pay the applicable fees, if any.

5.4 A person shall only install, erect or operate a Solid Fuel Burning Appliance in accordance with any:

- (a) permit requirements; or
- (b) additional restrictions or prohibitions pertaining to the installation and operation of Solid Fuel Appliances issued by a Fire Chief or Fire Chief's Designate.

Incinerators

- 5.5 Before installing, erecting or operating an Incinerator, or lighting, igniting or maintaining any fire in an Incinerator, a person must first obtain a permit issued by the Fire Chief or Fire Chief's Designate, and must pay the applicable fees, if any.
- 5.6 A person shall only install, erect or operate a Commercial or Domestic Incinerator in accordance with any:
- (a) permit requirements; or
 - (b) additional restrictions or prohibitions pertaining to the installation and operation of Incinerators.
- 5.7 The owner of an Incinerator shall ensure that:
- (a) the Incinerator is maintained in a condition that provides for the proper combustion of any material burned;
 - (b) while it is in use a competent person continuously supervises any burning and ensures sufficient fire extinguishing equipment necessary for fire control is available;
 - (c) a Domestic Incinerator is located at least:
 - i. 1.5 metres from any combustibles such as grass, shrubbery or wooden fencing; and
 - ii. 7.6 metres from any building or fuel storage area;
 - (d) a Commercial Incinerator is located at least:
 - i. 3 metres from any combustibles such as grass, shrubbery or wooden fencing; and
 - ii. 10 metres from any building or fuel storage area.

Industrial Activities

- 5.8 Where the Fire Chief or Officer of the Fire Department has prohibited or restricted an Industrial Activity, no person shall initiate or continue such activity.

Mill Waste

- 5.9 Where any person deposits any mill waste, he or she shall ensure that:
- (a) the Fire Chief is notified at least forty-eight (48) hours before the deposit;
 - (b) no deposit has a depth greater than 3 metres; and
 - (c) within one week, cover material at least 305 millimetres in thickness is applied to any deposit unless otherwise approved by the Fire Chief.

PART VI - EXEMPTION

- 6.1 This Bylaw does not apply to:
- (a) a fire used for the training of 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 a fire hazard.
- 6.2 As an exception to the permit requirements contained in sections 5.2.2 [*Category 2 Open Fires*], 5.3 [*Solid Fuel Burning Appliances*], 5.5 [*Incinerators*], and 5.8 [*Industrial Activities*], a Fire Chief or Fire Chief's Designate can institute, rescind, or re-institute a permit requirement for one or more of such fire types, within all or a portion of the service area that the Fire Chief or Fire Chief's Designate has responsibility for.
- 6.3 In relation to sections 4.6(a) and 5.1 [*Campfires*], a Fire Chief or Fire Chief's Designate may institute or rescind a permit requirement for campfires in all or part of a portion of the service area that the Fire Chief or Fire Chief's Designate has responsibility for, where, in their opinion, institution of permit requirements are necessary but a ban is not yet appropriate.
- 6.4 (a) When a permit requirement is rescinded, existing permits continue in force and the holder of such a permit is expected to comply with such existing permits and conditions on them, unless they receive written authorization from the Fire Chief or the Fire Chief's Designate cancelling their existing permit and confirming no permit is needed for their activity.
- (b) When a permit requirement is required, existing activities conducted or currently in-progress without a permit require a permit to continue.

PART VII - POWERS OF THE FIRE CHIEF AND OFFICERS

- 7.1 The Fire Chief for each Service Area is authorized to administer and enforce this Bylaw within that Service Area.
- 7.2 The Fire Chief or Officer of the Fire Department 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 for Open Fires, Solid Fuel Appliances and Incinerators under this Bylaw, and impose such conditions, restrictions and requirements as the Fire Chief or Fire Chief's Designate deems to be warranted to avoid the creation of a hazard or nuisance, due to weather, wind or other circumstance related to Fire Safety;

- (e) In writing, refuse to issue a permit for an Open Fire, Solid Fuel Appliance or Incinerator if in the opinion of the Fire Chief or Fire Chief's Designate the proposed activity is likely to create a hazard or nuisance because of adverse weather, wind or other circumstance;
- (f) suspend or cancel a permit, and impose conditions on resuming activity that was suspended, if:
 - i. the Fire Chief or Fire Chief's Designate believes the permitted activity cannot be carried out safely or without creating a nuisance due to changes in weather, wind or other circumstances related to fire safety changing since permit issuance, or is not being carried out safely or in accordance with permit conditions, an order under paragraph (c), a provision of this Bylaw, or another applicable enactment; or
 - ii. the Fire Chief or Fire Chief's Designate 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;
- (g) impose additional conditions or restrictions on any permit or class of permits if in the opinion of the Fire Chief or Fire Chief's Designate weather, wind or other circumstances related to fire safety have changed since the issuance of the permit, and the conditions or restrictions are required to address the changed circumstances;
- (h) authorize an Open Fire to reduce fuel build-up or decrease a fire hazard;
- (i) restrict or prohibit any Open Fire, and impose a ban on all Open Fires for a period of time (including Open Fires for which permits have been issued), if the Fire Chief considers the Fire Danger Rating warrants the restriction, prohibition or ban;
- (j) restrict or prohibit any Industrial Activity, if the Fire Chief considers the restriction or prohibition is necessary due to weather, wind or other circumstance related to fire safety;
- (k) where, in the opinion of the Fire Chief, an Incinerator or Solid Fuel Appliance is likely to create or become a fire hazard due to damage, deterioration, lack of maintenance, construction or location, or due to adverse, weather, wind or other circumstance related to fire safety, the Fire Chief may order the owner of the Incinerator or Solid Fuel Appliance to:
 - i. alter, renovate, repair or relocate the Incinerator or Solid Fuel Appliance, or
 - ii. discontinue its use.

This section 7.2(k) applies regardless of whether a permit has been issued for the Incinerator or Solid Fuel Appliance.

- 7.3 A person must not obstruct, prevent or interfere with the Fire Chief or Fire Chief's Designate acting under the authority of the Fire Chief from conducting an inspection pursuant to this Bylaw.

PART VIII – 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 Any person who violates any provision of this Bylaw shall be liable, upon summary conviction, to a fine of not less than \$50.00 and not greater than \$2,000.00, 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.

8.3 The Fire Chief, a bylaw enforcement officer, a peace officer, and a police officer as an agent of the Regional District are authorized to enter onto and into property for the purposes established by sections 284 and 419 of the *Local Government Act* in accordance with the provisions of section 16 of the *Community Charter* or other conditions of entry, if any, set out in the *Local Government Act*, *Community Charter* or another enactment.

8.4 If a Fire Chief finds that any provision of this Bylaw has been contravened or has not been complied with, or has been complied with improperly or only in part, or that conditions exist in or upon a building or property to which the bylaw applies and which, in his opinion, constitutes a fire hazard or otherwise constitutes a hazard to life or property the Fire Chief may:

- (a) make to the owner or occupier of the building or property such recommendations as deemed as necessary to correct the contravention or to ensure compliance with this Bylaw or to remove the hazards referred to in the Bylaw or,
- (b) make orders with respect to any of the matters referred to in this Bylaw in accordance with the *Local Government Act* or, where applicable, the *Fire Services Act*.

8.5 An order made under this Bylaw shall be in writing and shall be directed to the owner, occupier or lessee of the building or property in respect of which the order is made or to both.

8.6 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 property owner.

- 8.7 Where an owner or occupier is in default of an order made pursuant to this Bylaw, the Regional District, by its workers or others, 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 418 of the *Local Government Act*, 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.

PART IX – NO LIABILITY

- 9.1 This Bylaw shall not create a duty of the Regional District, its officers, employees or persons acting on its behalf pursuant to this Bylaw, including Fire Chiefs and Fire Chief's Designates, concerning enforcement or failure to enforce any matter contained in this Bylaw.
- 9.2 No act, error, omission or other neglect of the Regional District in relation to any matter contained in this Bylaw shall give rise to a cause of action or liability to any person.

PART X REPEAL AND CITATION

- 10.1 Effective April 1, 2023, Bylaw No. 3452, "Fire Regulation Bylaw No. 1, 2007", is repealed.
- 10.2 Effective April 1, 2023, this Bylaw No. 4489 comes into force.
- 10.3 This Bylaw may be cited for all purposes as "Fire Regulation Bylaw No. 2, 2022".

READ A FIRST TIME THIS	14 th	day of	December,	2022
READ A SECOND TIME THIS	14 th	day of	December,	2022
READ A THIRD TIME THIS	14 th	day of	December,	2022
ADOPTED THIS	14 th	day of	December,	2022

 CHAIR

 CORPORATE OFFICER