CITY OF DUNCAN

BYLAW NO. 3089

Being a Bylaw to Regulate Wood Burning Appliances and Air Quality

WHEREAS the Council of the City of Duncan has the authority pursuant to Section 8(3)(i) of the *Community Charter* to regulate the protection, promotion or preservation of the health of individuals in the City;

AND WHEREAS in June 2000, the Canadian Council of Ministers of Environment (CCME), except Quebec, adopted the Canadian Ambient Air Quality Standards (CAAQS) for Particulate Matter (PM_{2.5}) and Ozone;

AND WHEREAS research indicates that wood smoke is a significant contributor to PM_{2.5} levels, which pose significant health risks;

AND WHEREAS the Ministry of Health was consulted prior to adoption, pursuant to the *Community Charter*;

NOW THEREFORE the Council of The Corporation of the City of Duncan enacts as follows:

1. CITATION

1.1. This Bylaw may be cited for all purposes as "City of Duncan Wood Burning Appliances and Air Quality Bylaw No. 3089, 2013".

2. DEFINITIONS

"Air Quality Advisory" means a public health warning issued by the Ministry of Environment in conjunction with Vancouver Island Health Authority through local communications media.

"Building Inspector" means the person appointed from time to time by City of Duncan Council, and includes an officer, official, employee, or person acting for or in place of the Building Inspector.

"Bylaw Enforcement Officer" means the person appointed from time to time by City of Duncan Council.

"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.

"City" means the City of Duncan.

"Cob Oven/Stove" means an Outdoor Solid-Fuel Combustion Appliance made generally of materials consisting of clay, sand, straw, water, and earth similar to adobe, installed on a property, but not in a building, used exclusively for baking, roasting or cooking.

"Fire Chief" means the member appointed by Council as head of the Duncan Volunteer Fire Department.

"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 City of Duncan Fire Chief, Building Inspector, Bylaw Enforcement Officer 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 buildings, the heating of water or other such purpose and which is located in a separate building to a residence or on the exterior of the building which it serves, and includes a Cob Oven/Stove installed on the property.

"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.

"Particulate Matter (PM)" means tiny pieces of solid or liquid matter associated with the Earth's atmosphere.

"Pellet Stove Appliance" 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.

"PM_{2.5}" means tiny particles (particulate matter) or droplets in the air that are two and one half microns or less in width.

"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) (7-1-02 Edition), published by the United States Environmental Protection Agency.

"Wood Burning Appliance" means a fireplace, woodstove, central furnace, other than a Pellet Stove installed in any premises, in which wood is burned and which discharges combustion products to the air.

3. FUELS

3.1. Only Permitted Burning Appliance Fuels shall be used in a Wood Burning Appliance or Pellet Stove Appliance. At no time may Prohibited Burning Materials be used in a Wood Burning Appliance or in a Pellet Stove Appliance.

4. WOOD BURNING APPLIANCE INSTALLATION

- 4.1. No person shall install a Wood Burning Appliance or Pellet Stove Appliance in any premises unless the appliance is certified to the Canadian Standard or the equivalent US Standard.
- 4.2. No person shall install an Outdoor Solid-Fuel Combustion Appliance in or about any premises with the exception of outdoor installations of Cob Ovens/Stoves as permitted by this Bylaw.
- 4.3. Cob Ovens/Stoves may be installed in City Parks only.
- 4.4. For all new construction, the building shall contain a second form of space heating, such as natural gas, propane, electric, oil, solar, kerosene, or other form 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 or Pellet Stove Appliance.
- 4.5. All installations are subject to permit requirements of the City's Building Bylaw, and requirements of all other City Bylaws and amendments thereto.

5. WOOD BURNING RESTRICTIONS

- 5.1. No person shall use a Wood Burning Appliance or Pellet Stove 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.
- 5.2. No person shall operate a Wood Burning Appliance or Pellet Stove 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; or that are likely to affect the quality of life of nearby residents.

6. INSPECTION AND ORDERS

- 6.1. 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.
- 6.2. No person shall interfere with or obstruct an Officer in carrying out his/her duties pursuant to this Bylaw.
- 6.3. All persons shall comply with all orders of an Officer concerning compliance with the provisions of this Bylaw.
- 6.4. An Officer may order the extinguishment of any fire that is in violation of this Bylaw.
- 6.5. 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.

7. COST RECOVERY

- 7.1. An Owner or Occupant responsible for the use of a Wood Burning Appliance, Pellet Stove Appliance or an Outdoor Solid-Fuel Combustion Appliance shall be responsible for all costs and expenses resulting from extinguishment of the fire ordered by an Officer under Section 6. of this Bylaw.
- 7.2. In the event that an Owner or Occupant fails to pay the costs for which he or she is responsible under Section 6. of this Bylaw before the 31st 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, Pellet Stove Appliance or Outdoor Solid-fuel combustion Appliance.

8. NON-CERTIFIED APPLIANCE REMOVAL

- 8.1. Any non-certified Wood Burning Appliance, Pellet Stove Appliance or Outdoor Solid-Fuel Combustion Appliance removed under this section shall be rendered permanently inoperable.
- 8.2. Prior to the completion or consummation of a sale or transfer of any real property on or after January 1, 2014 all existing non-certified Wood Burning Appliances or Pellet Stove Appliances located on the property shall be replaced or removed.

9. FINES FOR OFFENCE

- 9.1. Every person who violates any of the provisions of this Bylaw, or who causes, suffers, or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, or who fails to comply with any order, direction or notice given under this Bylaw, is guilty of committing an offence against this Bylaw and is liable on summary conviction to a fine, as prescribed in the Municipal Ticket Information Utilization Bylaw, and to a maximum not exceeding the maximum allowed by the *Community Charter*, as amended, and the cost of prosecution.
- 9.2. A separate new offence shall be deemed to be committed on each day during which a violation occurs or continues.
- 9.3 Notwithstanding Section 9.1., any person who is guilty of obstructing a Fire Chief or the Fire Chief's appointed designate, Bylaw Enforcement Officer or Building Inspector, or their appointed designates while performing his/her duties in relation to this Bylaw is liable on summary conviction to a fine of not less than \$2,000.00, or to imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the *Community Charter*, as amended, and the cost of prosecution.

10. CONTINUING OFFENCE

10.1. If an offence is a continuing offence, each day that the offence is continued constitutes a distinct and separate offence.

11. SEVERABILITY AND HEADINGS

- 11.1. 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.
- 11.2. Section headings do not form part of this Bylaw. They are included for convenience only and must not be used in interpreting this Bylaw.

12. DUTY OF CARE

- 12.1. This Bylaw shall not create a duty of the City, its officers, employees, inspectors or persons acting on its behalf pursuant to this Bylaw concerning enforcement or failure to enforce any matter contained in this Bylaw.
- 12.2. No act, error, omission or other neglect of the City in relation to any matter contained in this Bylaw shall give rise to a cause or action or liability to any person.

13. ADMINISTRATIVE DIRECTIONS

13.1. Words defining the responsibilities and authority of the Fire Chief, Building Inspector and Bylaw Enforcement Officer, or their designates, shall be construed to be an internal administrative direction and not as creating a duty.

14. COMPLIANCE WITH OTHER BYLAWS

14.1.Compliance with this Bylaw does not nullify the responsibility of Owners or Occupants to comply with all other municipal Bylaws and regulations.

READ A FIRST TIME this 17th day of June, 2013.

READ A SECOND TIME this 17th day of June, 2013.

READ A THIRD TIME this 17th day of June, 2013.

DEPOSITED WITH THE MINISTRY OF HEALTH this 2nd day of July, 2013.

ADOPTED this 15th day of July, 2013.

DEPOSITED WITH THE MINISTRY OF ENVIRONMENT this 17th day of July, 2013

Karen Burley	Phil Kent
Director of Corporate Services	Mayor