

Village of Lumby

WOOD BURNING APPLICANCE SMOKE CONTROL

BY-LAW 663-2007

A By-law to regulate Wood Burning Appliances and the fuels used in order to enhance air quality within the Village of Lumby

WHEREAS, The Council of the Village of Lumby 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 (PM_{2.5}) and Ozone;

AND WHEREAS research indicates that wood smoke is a significant contributor to PM-2 levels, which pose significant health risks;

NOW THEREFORE, the Municipal Council of the Village of Lumby, in open meeting assembled, enacts as follows:

1. CITATION

This by-law may be cited as “Village of Lumby Wood Burning Appliance Smoke Control By-law 653-2007” and comes into effect upon adoption.

2. DEFINITIONS

In this By-law:

Air Quality Advisory means a public health warning issued by the Ministry of Environment in conjunction with Interior 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 Village of Lumby Chief Fire Inspection Officer, Fire Chief, Deputy Fire Chief, By-law 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 or on the exterior of the building which it serves. These appliances are also referred to as an outdoor boiler or 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.

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 some, dust, gas, sparks, ash, soot, cinders and fumes.

US Standard means the New Source Performance Standards, Title 40, Part 60, Sub-part AAA of the Code of Federal Regulations(USA) (7-1-92 Edition), published by the Unites 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.
- 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 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.
- d) Central wood heating systems able to demonstrate very low emissions, being < 20% of CSA B415.1 limit) are exempted from 4(a) and 4(b).
- e) All installations are subject to permit requirements as per Building By-law.

5. NON-CERTIFIED APPLIANCE REMOVAL

- a) The Village of Lumby 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, no-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 Village of Lumby shall be replaced or removed from all properties by the target date of December 31, 2015 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, 2008, 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, 2015.

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 by-law.
- b) No person shall interfere with or obstruct an Officer in carrying out his/her duties pursuant to this by-law.
- c) All persons shall comply with all orders of an Officer concerning compliance with the provisions of this by-law.
- d) An Officer may order the extinguishment of any fire that is in violation of this by-law.
- e) When a person does not comply with an Officer's order to extinguish a fire which is in violation of this by-law, 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 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.

9. OFFENCES AND PENALTIES

Any person who violates any of the provisions of this By-law, or who suffers or permits any act or thing to be done in contravention of this By-law, or who refuses, omits or neglects to fulfill, observe, carry out, or perform any duty or obligation imposed by this By-law, commits an offence and is liable, upon summary conviction, to a fine not more than \$10,000 for each offence.

10. SEVERABILITY

If any part, section, sub-section, clause, or sub-clause of this by-law for any reason is held to be invalid by the decision of the court or 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 by-law.

11. LIABILITY

- a) This by-law shall not create a duty of the Village of Lumby, its Officers, employees, inspectors or person acting on its behalf pursuant to this by-law concerning enforcement or failure to enforce any matter contained in this by-law.
- b) No act, error, omission or other neglect of the Village of Lumby in relation to any matter contained in this by-law shall give rise to a cause or action or liability to any person.

Read a first time this 2nd day of April, 2007

Read a second time this 2nd day of April, 2007

Read a third time this 2nd day of April, 2007

Adopted on the 7th day of May, 2007

"Original signed by"
Mayor Eric Foster

"Original Signed by"
Administrator, Frank Kosa