



March 2009

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**Community Wildfire Protection Plan**  
**Final Report**

## **Section 6: Legislation**

Local government can reduce the potential for interface fire disasters and wildfire damage through both public education and the use of legislative tools. Community leaders must continue to support ‘FireSmart community’ public education initiatives as well as seeking opportunities to mitigate interface fire hazard through the use of FireSmart planning guidelines backed with legislative authority.

A variety of legislative options exist and are discussed in the Kootenay Interface Steering Team (KIST) presentation ‘FireSmart – Legislative Options for Local Government’. A 2006 KIST meeting / workshop featured a review of interface fire legislation. Some of the most successful examples of interface fire legislation used OCP designated DPA - Wildfire Hazard Areas with guidelines established for protection of development from wildfire hazardous conditions. City of Kimberley, City of Langford and Regional District Central Okanagan - Westside OCP were all reviewed as examples of viable interface fire legislation.

**6.1 - Status of Interface Fire Legislation – City of Rossland** - The City is experiencing increasing development pressure with continued growth forecast for the foreseeable future. The physical layout of the City is such that most future development will be required to occur on and adjacent the City’s perimeter – an area subject to various degrees of wildfire hazard. FireSmart development can occur in this or any area but will require proactive imposition of planning or development controls tailored to wildfire hazard mitigation.

A recently conducted review of Kootenay Columbia municipal and regional district interface fire legislation developed three summary descriptors for the interface fire legislation reviewed for each municipality or regional district.

- Strong:** Legislation refers directly to wildfire hazard and i) provides specific direction on abatement or mitigation of wildfire hazard and ii) further imposes restrictions on development on land that is subject to wildfire hazard.
- Moderate:** Legislation discusses or refers indirectly to wildfire hazard but i) lacks specific direction on abatement or mitigation of wildfire hazard and ii) does not impose restrictions on development of land that is subject to wildfire hazard.
- Pending:** Legislation does not discuss or refer to wildfire hazard.

The review concluded that the majority (66%) of Kootenay Columbia municipalities and regional district agencies have interface legislation that is ‘pending’. City of Rossland interface legislation would be classified as ‘pending / moderate’.



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**6.2 - City of Rossland Bylaws** - A review of City bylaws with the potential to mitigate wildfire hazard was conducted, wildfire hazard mitigation references or lack thereof were noted. The following discussion is provided:

**Official Community Plan (OCP)** - An Official Community Plan (OCP) for the City of Rossland was adopted in 2008 and is a document established under the authority of the Province of British Columbia's Local Government Act. The OCP is used to guide land use planning and is created with input from the public. Once adopted by the RDKB Board of Directors, their decision making is guided by the objectives and policies in the OCP.

Communities with interface fire hazard issues may use an OCP to designate Development Permit Areas (DPA's) for the protection of development from wildfire hazard. The Local Government Act provides specific powers to address "wildfire hazard" and states that OCP's must include "...restrictions on the use of land that is subject to hazardous conditions..."

One section of the OCP (13.2 Policies) refers to use of interface fire protection strategies in establishing Development Permit Areas, Building Regulations, Land use and subdivision servicing bylaws - none have been established at this time.

The City of Rossland OCP contains a number of general references to wildfire hazard and mitigation.

**Section 13 Background** - 'These steep slopes, the past mining history and potential fire risk are hazards that must be considered prior to development'.

**Section 13.1 Objectives** - '2 - To reduce the risk of wildfire' and '3 - To raise awareness of wildfire hazards and identify the needs for mitigative action'.

**Section 13.2 Policies** - '4 - Develop a Community Wildfire Protection Plan to identify areas that pose the greatest risk to the community. Use development Permit Area guidelines to mitigate the risk in these areas' and '5 - Examine strategies for the protection of development from wildfire through a Community Wildfire Protection Plan. Where appropriate, incorporate regulations for the development of defensible space community and household firebreaks, appropriate building materials or other interface fire protection strategies into Development Permit Areas, Building Regulations, Land use and subdivision servicing bylaws' and '6 - Provide public presentations and demonstrations to raise awareness of the risk of wildfire and recommended measures for wildfire prevention using the "FireSmart: Protecting your community from Wildfire" manual to guide the efforts undertaken.' '7 - Consider the risk or potential for wildfire prior to decisions being made regarding land use allocation, subdivision or development.'

### **Schedule G - Red Mountain Consolidated Base Area Sector Plan**

**Section 2 Objectives** - 'To require wildfire mitigation plans as a condition of development approval wherever the threat of wildfire exists in the forest-urban interface'.

**Section 3 Policies** - 'Wildfire Mitigation plans may be required for all development proposals in the Red Mountain Consolidated Base Area'.



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**Schedule I - Redstone Sector Plan**

**Section 3.0 Land Use Designation, Objectives and Policies** - 'Encourage all development in this area to follow the general guidelines set out in the FireSmart Manual prepared by the British Columbia Forest Service Protection program'.

**Schedule H - Red Mountain Village Design Guidelines**

**1.5.2 Policy – Landscape Treatment** - 'Planting concepts should recognize the potential for Wildfire threat and adhere to the precepts of the Provincial FireSafe Program. (See also Section 5.2)'.

**5.2 Wildfire Interface** - The threat of fire from the surrounding wild forest lands to developed properties adjacent to such lands has prompted the establishment of special Wildfire Hazard design guidelines. The basic purpose of these guidelines is to control the combustible elements of both buildings and landscape in order to minimize the potential for the spread of fire and the resultant destruction of property, and threat to life. The recommendations contained in this Design Guideline are based on the Provincial FireSmart program.

***Subdivision and Development Bylaw 1018*** - Bylaw 1018 requires that all subdivision applications be provided with some level of technical review for a number of factors including natural hazards such as floodplain or soil stability. Approval of the Ministry of Transportation & Highways or the Ministry of Environment may be required prior to issuance of a Preliminary Layout Approval.

Bylaw 1018 does not specify wildfire hazard as a factor requiring technical review nor is the approval of the Ministry of Forests mentioned as being required (for areas subject to wildfire hazard). However, the City has been requiring a fire hazard assessment as a condition of Preliminary Layout Approval review. The recently completed 14<sup>th</sup> Avenue subdivision and a rezoning application for 3720 Columbia Ave. were required to have FireSmart restrictive covenants in place prior to approval.

***Building Bylaw 1978*** –The Provincial Building Code applies in all municipalities and provides local governments with controls over construction activity. 'Fire limit areas' which "regulate the construction of buildings in respect of precautions against fire and to discriminate and differentiate between areas in the character of the buildings permitted." can be established in fire prone areas. Building bylaws that require fire resistant building materials and construction techniques in fire prone areas are a powerful tool for local governments.

This method carries with it a greater liability for the local government since there is a requirement to enforce such regulations at the time of building permit. Amending local building bylaws and other changes to the Code (where buildings are required to meet the new standard as they are renovated or added to) would be controlled under the permitting schemes already in place.

Bylaw 1978 does not specify 'fire limit areas' or construction regulations in areas subject to wildfire hazard.



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**Zoning Bylaw 1912** - Bylaw 1912 does not refer to wildfire hazard and does not discuss wildfire hazard mitigation using any zoning or development control process.

**Tree Retention Bylaw 2389** - Bylaw 2389 (adopted in October 2008) was prepared by city staff in recognition of the need to provide tree cutting, retention and replacement regulations while at the same time retaining the ability to remove or replace trees that constitute a wildfire hazard. The Tree Retention Bylaw does not apply to 'any area subject to the requirements of the Community Wildfire Protection Plan as adopted by City Council.'

**Burning Bylaw 2383** - Bylaw 2383 (adopted in December 2007) was prepared by city staff in recognition of the need to impose burning regulations while at the same time retaining the ability to burn forest debris accumulations (resulting from wildfire hazard reduction treatments) as per BC MoFR Industrial and Agricultural Burning - General Guide to Responsible Burning specifications and in accordance with FireSmart debris burning recommended guidelines.

**Recommendation 6.2.1** City of Rossland planning and fire officials should review and compare both existing City bylaws and examples of successful interface fire legislation in consultation with an interface fire protection specialist. Development of viable interface fire legislation may be most effectively facilitated by amending the existing OCP DPA section to incorporate a schedule designated DPA – Wildfire Hazard Area (the boundaries of which can be derived from the CWPP Fire Danger Zone section).

In addition, guidelines for development permit issuance in any DPA – Wildfire Hazard Area should require that all new development or addition/retrofitting to existing structures takes place in accordance with FireSmart recommended guidelines applying to vegetation management, structural design and construction and infrastructural design or modification.