

# THE CORPORATION OF THE TOWNSHIP OF NORTH DUNDAS

## BY-LAW No. 2020-28

***Being a By-law to regulate the installation, use and maintenance of outdoor solid fuel combustion appliances within the Township of North Dundas.***

**WHEREAS** the Council of the Township of North Dundas is empowered by Section 125 of the *Municipal Act, 2001*, S.O. 2001, c. 25, to regulate the use and installation of heating and cooking appliances;

**AND WHEREAS** Section 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes a municipality to enter upon land and into structures at any reasonable time for inspection purposes in order to determine compliance with any By-law passed under subsection 125(1);

**AND WHEREAS** Section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes a municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

**AND WHEREAS** Section 45(3) of the *Planning Act, 1990*, c.P.13 authorizes a Council that has constituted a Committee of Adjustment to empower the Committee of Adjustment by By-law to grant minor variances from a provision of any By-law of the municipality that implements an official plan, or from such By-laws of the municipality as are specified and that implement an official plan;

**AND WHEREAS** Section 1.8.4 and Table 3.5.1 the Official Plan of the United Counties of Stormont, Dundas, Glengarry contain provisions relating to construction and use of accessory buildings and structures;

**NOW THEREFORE** the Council of The Corporation of the Township of North Dundas hereby enacts as follows:

### 1.0 SHORT TITLE

- 1.1 This By-law may be referred to as the "Outdoor Wood Burning Appliances By-law."

### 2.0 DEFINITIONS

- 2.1 For the purposes of this By-law, the following definitions shall apply:

**"Building Inspector"** means an inspector appointed pursuant to subsection 3(2) of the *Ontario Building Code Act, 1992* and by By-law of the Township for the purpose of enforcement of the Act.

**"Certified"** means an appliance, its components and accessories which has been investigated and tested and suitably marked with a label by a recognized testing agency as conforming to recognized standards, requirements or accepted test reports. Certified equipment shall be installed in accordance with the manufacturer's installation instructions.

**"Chief Building Official"** means the Chief Building Official appointed pursuant to subsection 3(2) of the *Ontario Building Code Act* and by By-law of Township for the purpose of enforcement of the Act.

**“Committee of Adjustment”** means a committee of adjustment constituted under Section 44 of the *Planning Act, R.S.O. 1990, c. P.13*.

**“Council”** means the Council of The Corporation of the Township of North Dundas.

**“Municipal Law Enforcement Officer”** means a person appointed by the Township under Section 15 of the *Police Services Act, R.S.O. 1990, c. P.15*.

**“Officer”** means the *Chief Building Official, a Building Inspector* or a *Municipal Law Enforcement Officer*.

**“Outdoor Solid Fuel Combustion Appliance”** means 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 or pool to which it serves.

**“Permit”** means written permission or written authorization from the *Chief Building Official*.

**“Township”** means The Corporation of the Township of North Dundas.

**“Unacceptable Fuel”** means, but is not limited to, wet or unseasoned wood, garbage, animal waste or byproducts, treated wood, plastic products, rubber products, waste oil, paints, paint solvents, coal, glossy or colored papers, or particle board.

**“Waste”** means any material defined as waste in section 25 of the *Environmental Protection Act, R.S.O, c. E.19*, as amended.

### 3.0 GENERAL REQUIREMENTS

- 3.1 This By-law applies to all lands within the geographic limits of the *Township*.
- 3.2 No person shall install, use or maintain an *Outdoor Solid Fuel Combustion Appliance* within the *Township* which is:
  - 3.2.1 Not *Certified* by the Canadian Standards Association or any other accredited test laboratory;
  - 3.2.2 Less than 30 metres (98 ft.) from any property line;
  - 3.2.3 Less than 100 metres (328 ft.) from any residential dwelling on an adjacent lot;
  - 3.2.4 On any lot or block within a registered plan of subdivision; and/or
  - 3.2.5 On any lot zoned Residential, as defined in the Zoning By-law.
- 3.3 No person shall burn *Waste* or any other *Unacceptable Fuel* in an *Outdoor Solid Fuel Combustion Appliance*.
- 3.4 No person shall use any fuel in an *Outdoor Solid Fuel Combustion Appliance* other than what is approved in the manufacturers’ operating instructions.
- 3.5 No person shall use an *Outdoor Solid Fuel Combustion Appliance* located upon one lot or property to heat a building situated upon another lot or property.
- 3.6 No person shall install an *Outdoor Solid Fuel Combustion Appliance* within the *Township* other than in accordance with the provisions of this By-law.

- 3.7 No person shall use or maintain an *Outdoor Solid Fuel Combustion Appliance* unless it is in accordance with the provisions of this By-law.
- 3.8 This By-law does not apply to barbecues or open air fires.

#### **4.0 INSTALLATION REQUIREMENTS**

- 4.1 An *Outdoor Solid Fuel Combustion Appliance* shall be located and installed as follows:
  - 4.1.1 At a minimum of 9 metres (30 ft.) from any building on the property, or other distance by an approved testing agency as detailed in the manufacturer's installation instructions;
  - 4.1.2 Such that the perimeter ground area around the unit to a distance of 3 metres minimum from the unit shall be of non-combustible surface;
  - 4.1.3 The unit's chimney cap shall be fitted/equipped with a rain cap/spark arrester, or as per the manufacturer's specifications;
  - 4.1.4 The height of the chimney must meet the manufacturer's specifications; and
  - 4.1.5 In accordance with a site location/installation plan as approved by the *Chief Building Official* or designate.
- 4.2 The installation of an *Outdoor Solid Fuel Combustion Appliance* must be in compliance with the Ontario Building Code, the Ontario Fire Code, the *Fire Prevention and Protection Act, 1997, S.O. 1997, c. 4*, the manufacturer's installation instructions and all applicable law.
- 4.3 There shall not be more than one (1) *Outdoor Solid Fuel Combustion Appliance* permitted on a lot except where it serves a permitted accessory dwelling or an agricultural building on lands used primarily for agricultural purposes.
- 4.4 An *Officer* may at any reasonable time, enter onto land for carrying out an inspection to determine compliance with this By-law.

#### **5.0 PERMIT & FEES**

- 5.1 No person shall install an *Outdoor Solid Fuel Combustion Appliance* without a *Permit* issued by the *Chief Building Official*.
- 5.2 The applicable fees shall be in accordance with the *Township Building By-law*.
- 5.3 The applicable fees shall be paid at the application stage.

#### **6.0 PLANS AND SPECIFICATIONS**

- 6.1 Every applicant shall furnish sufficient information with each application for a *Permit* to enable the *Chief Building Official* to determine whether the proposed installation will conform to this By-law or any other applicable law.
- 6.2 The application for *Permit* shall include the following documents and specifications:

- 6.2.1 Completed application;
- 6.2.2 Site plan;
- 6.2.3 Specifications of the *Outdoor Solid Fuel Combustion Appliance*,
- 6.2.4 Information related to the location and installation, per Section 4 of this By-law; and
- 6.2.5 Be accompanied by the prescribed fee.

## 7.0 MINOR VARIANCES

- 7.1 Despite any other provision of this By-law, the *Committee of Adjustment* may, upon the application by any person affected, authorize such minor variance from the provisions of this By-law that, in the opinion of *Committee of Adjustment*, maintains the general intent and purpose of the By-law.
- 7.2 An application for a variance to this By-law made to the *Township Committee of Adjustment* shall be accompanied by the prescribed fee, which is contained in the *Township's Tariff of Fees By-law*.
- 7.3 Where an application made under Section 7.1 is incomplete, the Director of Planning, Building and Enforcement may refuse the application.

## 8.0 OFFENCE

- 8.1 Any person who contravenes any provisions of this By-law is guilty of an offence recoverable under the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended.
- 8.2 Where a person is convicted of an offence under this By-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 8.3 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced *Council* to pass the remainder of the By-law, and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.
- 8.4 Where a provision of this By-law conflicts with the provision of another By-law in force within the Municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.
- 8.5 No person shall hinder or obstruct, or attempt to hinder or obstruct, an *Officer* in the exercise of a power or the performance of a duty under this By-law.

## 9.0 TRANSITION

- 9.1 Notwithstanding Sections 3.3 and 3.4, any *Outdoor Solid Fuel Combustion Appliance* that was lawfully installed prior to the passing of this By-law, shall be deemed to be in compliance.
- 9.2 The onus will lie on the owner to demonstrate that such unit was installed prior to the passage of this By-law.

**10.0 EFFECTIVE**

10.1 This By-law shall come into force and effect upon the date of its passing.

**READ and passed in Open Council, signed and sealed this 19th day of May, 2020.**



MAYOR



CLERK