

**THE CORPORATION OF THE CITY OF QUINTE WEST
BY-LAW NUMBER 10-137**

BEING A BY-LAW TO REQUIRE NOTIFICATION OF THE CITY OF QUINTE WEST FIRE DEPARTMENT FOR THE PURPOSE OF THE CONTROL AND REGULATION OF OPEN AIR BURNING AND THE SETTING OF CONTROLLED FIRES WITHIN THE BOUNDARIES OF THE CITY OF QUINTE WEST.

WHEREAS section 475 (3) of the Municipal Act, 2001 as amended, authorizes councils of local municipalities to pass by-laws for the making of regulations for preventing fires and the spread of fires, and

WHEREAS the Council of the Corporation of the City of Quinte West deems it desirable and in the best interests of the residents of the City of Quinte West to control and regulate open air burning and controlled burning to aid the prevention and spreading of fires.

NOW THEREFORE: BE IT ENACTED BY THE COUNCIL FOR THE CORPORATION OF THE CITY OF QUINTE WEST AS FOLLOWS:

1. This By-law may be entitled, the "**Open Air Burning By-law**".
2. For the purpose of this By-law:
 - (a) "Burning Ban" means that no open air burning shall take place during the time that the ban is in effect.
 - (b) "Certificate of Notification" / "Certificate" means the certificate, issued by the Fire Chief or his designate, which recognizes that a notice to set a fire has been received.
 - (c) "City" means the Corporation of the City of Quinte West.
 - (d) "Controlled Burn" means open air burning for which a permit is required.
 - (e) "Fire Area" means those properties that are grouped together for the purposes of requirements and conditions for open air burning and are as follows;
 - (i) Area 'A'-includes all properties in Ward 1
 - (ii) Area 'B' includes all properties in Ward 2
 - (iii) Area 'C' includes all properties in Ward 3
 - (iv) Area 'D' includes all properties in Ward 4
 - (f) "Fire Chief" includes the Fire Chief and the Deputy Fire Chief for the City of Quinte West
 - (g) "Fire Department" means the Fire Department organized under the Municipal Act for the provision of fire protection for the City of Quinte West.
 - (h) "Fire Prevention Officer" includes the Fire Chief or a member or members of the Fire Department who is/are designated by the Fire Chief or a person appointed by the Fire Marshall pursuant to the provisions of the Fire Prevention and Protection Act.
 - (i) "Permit" means the written authority to set, start or maintain a controlled burn.

3. This By-law applies to the whole of the City of Quinte West and the provisions of sections 4 to 10 apply exclusively and only to Fire Areas 'B' and 'C' and sections 11 to 13 apply exclusively and only to Fire Areas 'A' and 'D'.
4. No person shall in the open air, set or start or maintain any fire unless a Certificate of Notification has been issued, in accordance sections 6 and 7 of this by-law.
5. No person shall in the open air cause the setting or starting or maintenance of any fire, unless a Certificate of Notification has been issued in accordance sections 6 and 7 of this by-law.
6. Any notice required by sections 4 and 5 shall;
 - (a) be in writing to the Fire Chief in the form required from time to time by the Fire Chief, and
 - (b) state the intention, to set or start a fire or to cause the setting or starting of a fire, and
 - (c) provide;
 - (i) the full name, municipal address ("911" mapping address) and the telephone number of the person notifying the Fire Chief of the setting of the fire.
 - (ii) the full name, municipal address ("911" mapping address) and telephone number of the person or persons actually setting and supervising (maintaining) the fire, if applicable;
 - (iii) the full name, municipal address ("911" mapping address) and telephone number of each person who is an owner or occupant of the property upon which the fire is to be located, if different from (i);
 - (iv) the actual location of the fire and municipal address ("911" mapping address) if applicable; and
 - (v) the material that will be burned in the fire, and
 - (d) be accompanied with the set fee as set out in the Corporation of the City of Quinte West current Fees and Charges By-law, and
 - (i) the fee shall be for a calendar year, 1 January to 31 December.
 - (ii) no fee is required for a Certificate Of Notification, where the land upon which the fire is to be set or started is defined as an Agricultural Operation in section 1 of the Farm Practices Protection Act Chapter. F.6 R.S.O 1990 and has an area of twelve (12) hectares or more.
7. The Fire Chief or his designate upon receipt of the notice information as required in section 6 shall issue a Certificate Of Notification and any Certificate issued is only for the property indicated on the Certificate.
8. Every person who sets a fire or who causes a fire to be set or maintained shall ensure that the conditions of this section are followed;
 - (a) Fire dispatch shall be notified prior to any burning taking place.

- (b) An attendant shall be present at all times.
 - (c) Farm acreage shall be precut to a maximum of 15 cm. in height.
- 9. Every person who sets or maintains a fire or who causes a fire to be set or maintained shall ensure that the conditions of this section are followed;
 - (a) Burning shall take place only between one half hour after sunrise and one half hour before sunset of any day.
 - (b) The fire shall be fully extinguished before the attendant leaves the fire.
 - (c) No burning shall take place within 50m of any structure or building and within 10 meters of any property line
- 10. Every person who sets or maintains a fire shall ensure that the conditions of this section are followed;
 - (a) The fire shall be a maximum size of three (3) meters x three (3) meters x three (3) meters.
 - (b) Material for the fire shall not be transferred to or from another property.
 - (c) Material for the fire shall not be moved into the City of Quinte West from outside the City.
 - (d) Material for the fire shall not when burned emit noxious or toxic smoke or gases.
- 11. No person shall set or maintain a fire or cause a fire to be set or maintained except in an appliance and in such location as approved by a Fire Prevention Officer.
- 12. A Fire Prevention Officer shall be the only authority to approve an appliance and location, in accordance with the Ontario Fire Code and may approve ULC and CSA approved backyard outdoor fireplaces of concrete or brick construction.
- 13. Every person who sets or maintains a fire or who causes a fire to be set or maintained shall ensure that the conditions of this section are followed;
 - (a) Every fire shall be in an appliance that is specifically designed for the cooking of food on a grill or barbecue, for human consumption.
 - (b) Every fire in an appliance shall only be in fueled by;
 - (i) propane fuel, or
 - (ii) natural Gas fuel, or
 - (iii) charcoal, or
 - (iv) charcoal briquettes, or
 - (v) wood chips, (such as Hickory), when used for flavouring the food.
 - (c) Cut wood of any sort is not approved for use in an appliance unless it is used in a fireplace that is approved by a Fire Prevention Officer.

- (d) Every fire shall be set and maintained so as not to be a nuisance or create excessive smoke.
14. No person shall in the open air, set, start or maintain a controlled burn unless a permit for the burn has been issued in accordance with section 17.
15. No person shall in the open air, cause the setting or starting or maintenance of a controlled burn unless a permit for the burn has been issued in accordance with section 17.
16. All open air burning not in compliance with, or not set out elsewhere in this by-law is deemed to be a controlled burn, and
- (a) shall require a permit which may contain specific conditions for the setting or maintaining of a controlled burn, and
 - (b) the application for the permit shall be in accordance with section 17.
 - (c) any permit applied for may not be issued and the permit shall be only for the day(s) and property as stated on the permit
17. An application for a permit shall;
- (a) be in writing to the Fire Chief in the form required from time to time by the Fire Chief, and
 - (b) state the intention, to set or start a controlled burn or to cause the setting or starting of a controlled burn, and
 - (c) provide;
 - (j) the full name, municipal address ("911" mapping address) and the telephone number of the person applying for the permit.
 - (ii) the full name, municipal address ("911" mapping address) and telephone number of the person or persons actually setting and supervising (maintaining) the fire, if applicable;
 - (iii) the full name, municipal address ("911" mapping address) and telephone number of each person who is an owner or occupant of the property upon which the fire is to be located, if different from (i);
 - (iv) the actual location of the fire and municipal address ("911" mapping address) if applicable; and
 - (v) the day and time that burning will take place.
 - (vi) the material that will be burned in the fire.
 - (vi) all safety and control precautions that will be taken.
18. Every person who sets or maintains a controlled burn or who causes a controlled burn to be set or maintained shall ensure that;
- (a) All conditions in the application and all requirements set out as conditions of the permit being issued, are followed.
 - (b) Fire dispatch is notified prior to any burning taking place.

- (c) An attendant is present at all times.
 - (d) The fire is fully extinguished before the attendant leaves the fire.
19. Every person who sets or maintains a fire shall ensure that the conditions of this section are followed;
- (a) Material for the fire shall not be transferred to or from another property.
 - (b) Material for the fire shall not be moved into the City of Quinte West from outside the City.
 - (c) Material for the fire shall not when burned emit noxious or toxic smoke or gases.
20. The Fire Chief may;
- (a) declare a Burning Ban is in effect, when it is deemed hazardous to set fires and during such ban all Certificates Of Notifications, appliance approvals, location approvals and / or permits are suspended until such time as the ban is removed, and
 - (i) a notice of the Burning Ban may be given by announcements through radio, television or print media, of general circulation in the City of Quinte West.
 - (b) revoke any Certificates of Notification, appliance approval, location approvals and / or permit, if in the opinion of the Fire Chief any conditions of this by-law, or the Fire Code, or fire safety practices have been seriously or repeatedly breached, and
 - (i) a notice of revocation shall be given in writing to the person to whom the Certificates of Notification, appliance approval, location approvals and / or permit was issued or to the person to whom approval was given and shall be by personal service or service by prepaid registered mail and the notification if mailed shall be deemed to be served four days after the mailing of the revocation notice.
 - (ii) Any revocation shall be a prohibition from obtaining a Certificates of Notification, appliance approval, location approvals and / or permit, until such time as the Fire Chief rescinds the revocation.
 - (c) ban any person from receiving a permit, a Certificates of Notification, appliance approval, location approvals and / or permit for any period of time as the Fire Chief deems necessary, if in the opinion of the Fire Chief such person should not be allowed to set or maintain or to cause to be set or maintained any fire.
21. A Fire Prevention Officer may;
- (a) suspend a Certificates of Notification, appliance approval, location approvals and / or permit approval for any period of time that seems appropriate, if the Fire Prevention Officer deems;
 - (i) the location, situation or conditions to be hazardous for a specific fire or appliance, or

- (ii) the fire, appliance or location are inconsistent with, this By-law or a permit including any complaint of smoke or nuisance.
- 22. If a Fire Prevention Officer deems it necessary to suspend any Certificates of Notification, appliance approval, location approvals and / or permit approval the notice of suspension;
 - (a) may be given verbally to the person maintaining the fire and such suspension is effective immediately and the fire shall be extinguished by the person maintaining the fire, and
 - (b) shall be given in writing to the person to whom the Permit or Certificate Of Notification was issued or to the person to whom approval was given and shall be by personal service or service by prepaid regular mail and the notification if mailed shall be deemed to be served four days after the mailing of the suspension notice.
- 23. No person shall set or maintain or cause to be set or maintained, a fire on any property;
 - (a) while a Burning Ban is in effect, or
 - (b) for which the Permit or Certificate Of Notification has been suspended, or
 - (c) for which the appliance or location approval has been suspended, or
 - (d) for which the Permit or Certificate of Notification has been revoked, or
 - (e) for which the appliance or location approval has been revoked, or
 - (f) when such person has been banned in accordance with section 20. (c).
- 24. The provisions of sections 4, 5, 8(a) and 10 (a) shall not apply in Fire Areas 'B' and 'C' to:
 - (a) Any small fire, (a maximum of 1 meter x 1 meter) provided that;
 - (i) it is supervised at all times, and
 - (ii) it is used for warmth and/or to cook food for human consumption on a grill or a barbecue, and
 - (iii) it is not located closer than, 50m to any structure or building and 10m to any property line.
 - (b) Any fire in a metal or concrete incinerator that is hooded or screened, to prevent the blowing of sparks, ashes etc., and provided that;
 - (i) it is not located closer than, 50m to any structure or building and 10m to any property line, and
 - (ii) no more than one incinerator is located on any one property.
- 25. The City shall not be held responsible for any damages or loss that may be incurred by a person due to fires set or started pursuant to the provisions of this By-law.
- 26. The provisions of this By-Law shall not be construed as taking precedence over any other applicable Provincial or Federal Legislation.

27. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to such fines and penalties as provided for in the Provincial Offenses Act, R.S.O. 1990, Chapter P33, (as amended).
28. Despite section 27 any owner of property who permits or sets or maintains a fire or who causes a fire to be set or maintained other than in accordance with this by-law shall be liable for the full cost of attendance at the fire should the Fire Department be dispatched on a fire call and such costs may be recovered by action or in like manner as taxes.
29. Despite sections 27 and 28, any penalty imposed;
 - (a) shall not be deemed to be payment of any fee due, and
 - (b) shall not be deemed to have issued any permit, certificate or approval, and
 - (c) shall not be a bar to the Corporation pursuing any other remedies available to it.

Part 2 Definitions

"Outdoor Furnace" shall mean, any appliance housed in a structure or free standing, that is primarily designed to convert solid fuel to heat and transfer the heat to another or adjacent structure, pool, green house or for domestic water heating or other purposes and may include a boiler or pressure vessel.

"Structure" shall mean, any combustible or non-combustible building as defined by the Ontario Building Code and shall include but not limited to: a garage, a shed, an outbuilding, a storage building, a greenhouse etc...

"Solid Fuel" shall mean, any wood, paper or cardboard product, or similar fuel, organic products, or any other combustible products.

Part 4 Regulations

Outdoor Furnaces (OF'S) or Appliances shall not be installed without the approval of the Fire Department and shall meet the following conditions.

- a) Outdoor Furnaces shall only be approved in areas Zoned rural residential, industrial or commercial providing that the installation meets all required set backs and is approved by the Fire, Building and Planning Departments.
- b) A building permit is required for all Outdoor Furnaces.
- c) Outdoor Furnaces shall not be installed closer to any structure than recommended by the manufacturer and not closer than 30 meters to any property lot line.
- d) Outdoor Furnaces shall only burn approved fuels, and are **not permitted** to burn any product unless approved by the fire department, including but not limited to, no household waste, no yard waste, no brush trimmings, no leaves, no paper or cardboard (except for starting the fire).
- e) Outdoor Furnaces are only permitted to use the following fuels: wood, organic products developed for this purpose, or any other fuel approved by the Fire Department.
- f) Outdoor Furnaces shall not be started by using a flammable or combustible liquid, but may be started with LP gas, provided that this is an installed component of the appliance.
- g) All Outdoor Furnaces shall have some form of spark arresting on the stack to prevent fires unless this safe guard is part of the combustion chamber design.

- h) Outdoor Furnaces shall be cleaned including the stack and spark arrester on a schedule recommended by the manufacturer, but not fewer than 3 times per year.
 - i) Outdoor Furnaces shall be ordered shut down, if at any time, the smoke creates a nuisance to anyone.
 - j) Outdoor Furnaces shall not be installed on any side yard or the front yard of any property without the expressed approval of the Planning and Fire Departments.
 - k) If installed inside a structure, then it shall comply with all the requirements of the manufacturer and the Ontario Fire and Building Codes as a solid fuel burning appliance complete with rated chimney and clearances to combustibles.
 - l) All electrical connections shall comply with the Ontario Electrical Code and shall be approved by the Electrical Safety Authority.
 - m) If Outdoor Furnaces are installed outside a structure, they may be subject to burning bans, unless it can be clearly demonstrated that the spark arrester provides the necessary protection.
 - n) Vegetation shall be kept cut and neat around Outdoor Furnaces and shall not be permitted to create a fire hazard.
 - o) If any pressure vessel or boiler is part of the appliance or installed later, it shall comply with the requirements of TSSA.
30. In the event any court of competent jurisdiction should adjudge that any section or sections of this By-law is/are not valid for any cause, such section or sections shall be deemed severable from the remainder of the By-law and the remainder of the By-law shall stand and be enforced to the same extent as if the offending section or sections had not been included therein.
31. That By-law 10-16 is hereby repealed.
32. This By-law shall take effect and come into force upon final passing hereof.

**READ, A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
THIS 13th DECEMBER 2010.**



John R. Williams, Mayor



DonnaLee Craig, City Clerk