

**THE CORPORATION OF THE CITY OF CORNWALL**

**By-law # 2014-063**

**A By-law to regulate Open Air Burning permits for residential approved solid fuel burning appliances and to repeal By-law 2014-050**

Whereas the *Municipal Act*, 2001, c.25, Part III, Section 130 authorizes the municipality to regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality; and

Whereas Section 7.1(1)(a) of the *Fire Protection and Prevention Act*, R.S.O. 1997, c.4, as amended provides that a council of a municipality may pass By-laws regulating fire prevention, including the prevention of spreading fire; and

Whereas Section 7.1(1)(b) of the *Fire Protection and Prevention Act*, R.S.O. 1997, c.4, as amended provides that a council of a municipality may pass By-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set; and

Whereas Section 2.6.3.4. of the Ontario Fire Code states "Open air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue".

Now therefore the Council of The Corporation of the City of Cornwall enacts as follows:

**Definitions:**

For the purpose of this By-law:

"Appliance" means a device which contains wood for an open air burn.

"Approved" means approved by the Chief Fire Official or his designate.

"Chief Fire Official" means the Municipal Fire Chief as person having jurisdiction with the application of this By-law described in Subsection 1.4.1 of Division A of the Ontario Fire Code, O. Reg 213/07, as amended.

"Designate" means the person(s) acting on behalf of the Chief Fire Official appointed by the Municipal Fire Chief to be Chief Fire Official(s) as described in Subsection 1.4.1 of Division A of the Ontario Fire Code, O.

Reg 213/07.

"Garden Hose" means a type of flexible tube used to carry water under pressure from a source of supply to a point where it is discharged.

"Open air burning" is any fire set outside, other than on a small confined grill, while being used to cook food.

"Residential" means single family dwelling.

"Permit" means an open air burn permit issued in accordance with this By-law

#### 1. Administration

The Chief Fire Official or his designate shall be responsible for the administration and enforcement of this By-law.

#### 2. Prohibition - Open Air Burning

Campfires, incinerators, outdoor fireplaces, burn drums and construction site fires are examples of open air burning and are not permitted.

No person shall conduct, or permit to be conducted, an open air burning within the boundaries of the City of Cornwall unless:

(a) that person holds a valid Permit; and

(b) that person complies with all applicable regulations specified in this By-law.

#### 3. Environment

(a) No Open Air Burning shall be permitted when a Smog Alert has been issued for the forecast region of Stormont, which includes the City of Cornwall; and

(b) At certain times of the year and as conditions warrant, the Chief Fire Official may issue a complete ban on open air burning. When a ban is issued, all open air burning is prohibited with the exception of actual cooking on a grill.

#### 4. Restrictions

(a) Only clean cured wood is to be used for burning. The following are examples of items that should not be burned in an appliance: green wood, painted wood, construction material and garbage, cardboard or recyclable material.

(b) Open air burning shall meet a number of conditions. Regulations for open air burning shall include all of the following.

The fire must be:

- i. small and the use of non combustibles shall be limited in use to permit a maximum size of burning materials in the appliance. The fire shall not be greater than 45 centimeters (18 inch) by 45 centimeters (18 inch);
- ii. supervised at all times by a person who, in addition to holding a valid Permit, is eighteen (18) years of age or older and maintains constant watch and control over the open air fire at all times from the time of the setting of the fire until the fire is totally extinguished;
- iii. kept on a non-combustible surface a minimum twenty (20) feet (6 meters) from structures and property lines. (The minimum distance can also be at the discretion of the Chief Fire Official or his designate.);
- iv. extinguished should wind speed exceed 15 kilometers per hour (10mph);
- v. extinguished with a garden hose or shovel when there is no supervision at the site of the open air burn; and,
- vi. extinguished upon being so ordered by the Chief Fire Official or his designate.

## 5. Exemptions

### Ontario Fire Code

#### Open-air burning

2.6.3.4. (1) Open-air burning shall not be permitted unless approved, or unless such burning consists of a small, confined fire, supervised at all times, and used to cook food on a grill or a barbecue; and

(2) Sentence (1) does not apply to an appliance that is in conformance with the *Technical Standards and Safety Act 2000*, is for outdoor use and is installed in accordance with the manufacturer's instructions.

## 6. Application for An Open Air Burn Permit

(a) Any person eighteen (18) years of age or older may make a written application for an open air burn Permit to the Chief Fire Official or his designate prior to the proposed date of the first scheduled open air burn.

(b) An application in the form prescribed, from time to time, by the Cornwall Fire Department, is to be filled out in full including any other information as may be required by the Chief Fire Official or his designate.

(c) Fees for open air burn Permits will be in accordance with the

Corporation of the City of Cornwall's schedule of "Services Subject to Fees and Charges" and may be amended from time to time.

(d) On receipt of an application and application fee in compliance with Sections 6 (a) –(c) above, the Chief Fire Official or his designate may either issue a Permit, with or without conditions, or refuse to issue a Permit, in which case reasons for the refusal will be provided.

(e) Notwithstanding Section 6(d) above, should an Approved Appliance remain in the same location (initially approved by the Chief Fire Official or his designate) as indicated on the application, the application will automatically be approved (this is referred to as a Renewal).

#### 7. Open Air Burn Permits

(a) No Permit holder shall undertake to set or maintain any open air burn except in accordance with the conditions of the Permit.

(b) The Permit holder shall comply at all times with the Fire Protection and Prevention Act, and with all other applicable municipal By-laws and provincial and federal laws.

(c) A Permit issued under this By-law is not transferable.

(d) A Permit issued under this By-law is valid for either three (3) years from the date of issuance or one (1) day, on the date specified on the face of the Permit, depending on the type of Permit.

#### 8. Timing of Open Air Burning

The following are the dates and times during which open air burns may be set:

From April 1 to October 31

From sunset to midnight

#### 9. Indemnification

A Permit holder shall indemnify and save harmless the City of Cornwall from any and all claims, demands, causes of action, losses, costs or damages that the City of Cornwall may suffer, incur or be liable for resulting from an open air burn as set out in the By-law whether with or without negligence on the part of the Permit holder, the Permit holder's employees, directors, contractors and agents.

## 10. Complaints

In the event that the Cornwall Fire Service receives a complaint about an open air burning, the Chief Fire Official or his designate may order the open air burning to be extinguished irrespective of whether the open air burning is in compliance with this By-law, provided however that, in the event that the open air burning complained of is not in compliance with this By-law for any reason, any Permit issued to the person responsible for such open air burning, will be suspended until such time as a follow up inspection has been completed and all issues have been addressed.

## 11. Short Title

This By-law shall be known as the Open Air Burning By-law.

## 12. Public Health

The application package for a Permit will include health information on wood smoke and the risks it may pose to your health. See Appendix "A".

## 13. Offence and Enforcement

(a) A person is guilty of an offence if the person:

- i. furnishes false information in the application for a Permit under this By-law; or
- ii. contravenes any provision of the By-law; or
- iii. contravenes an order issued by the Chief Fire Official or his designate; or
- iv. conducts or permits to be conducted open air burning without having a valid Permit.

(b) open air burning without a Permit and in contravention of this By-law is also a violation of the Ontario Fire Code

(c) a Permit issued under this By-law may be revoked by the Chief Fire Official or his designate:

- i. if a dangerous conditions exists in or near the site of the open air burn; or,
- ii. if the permit holder fails to comply with the requirements of the permit and any other provisions of this By-law.

(d) Persons convicted of violating this by law shall be liable to pay a set fine of \$195.00.

(e) All fire inspectors, fire department Platoon Chiefs, Acting Platoon Chiefs, Captains and Acting Captains are hereby appointed as By-law

enforcement officers for the purposes of this By-law.

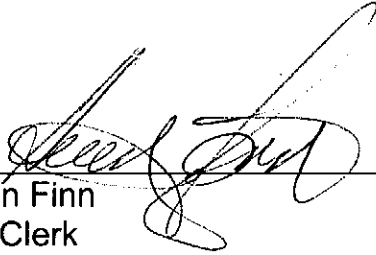
(f) Persons violating the Ontario Fire Code may be prosecuted under the Fire Protection and Prevention Act and on conviction subject to the fines and penalties provided for in that Act.

(g) In addition, persons who conduct or permit open air burning in contravention of this By-law may be subject to full cost recovery measures including the cost of Fire department vehicles, equipment and staff.

14. This By-law to take effect on the day of passing by City Council. All open air burn permits previously issued will be grandfathered until their expiry date.

15. That By-laws 2014-050 and 2009-150 be hereby repealed.

Read, signed and sealed in open Council this 14th day of April, 2014.



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Helen Finn  
City Clerk



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Bob Kilger  
Mayor