

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2010-02

***Being a by-law to regulate the location, installation and operation of
Outdoor Solid Fuel Burning/Combustion Appliances***

WHEREAS Subsection 130 of the Municipal Act 2001, S.O 2001 c. 25, as amended, enables the Council to pass by-laws relating to the safety and well-being of the inhabitants of the municipality;

AND WHEREAS Section 129(2) of the Municipal Act 2001, S.O. 2001 c.25, as amended, enables a municipality to prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination including indoor lighting that can be seen outdoors;

AND WHEREAS Section 125(1)(a) of the Municipal Act 2001, S.O. 2001 c.25, as amended, a by-law may regulate the use and installation of heating and cooking appliances;

AND WHEREAS Section 128(1) of the Municipal Act 2001, S.O. 2001 c.25, as amended, a local municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of council, are or could become or cause public nuisances;

NOW THEREFORE the Council of the Corporation of the Township of Asphodel-Norwood enacts as follows:

1. Definitions:

a) “Outdoor solid fuel combustion appliance” (i.e. outdoor wood burning furnace), 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 separate building or on the exterior of the building which it serves.

b) “Certified” means an appliance, its components and accessories which has been investigated, 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.

2. This by-law applies to all lands within the geographic limits of the Township of Asphodel-Norwood.
3. The installation of outdoor solid fuel combustion appliances shall be in compliance with the Ontario Building Code, the Ontario Fire Code, the manufacturer’s installation instructions and all applicable law. The installation of uncertified units must comply with all applicable laws.
4. Every person who contravenes any provisions of this by-law or causes or permits any such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.00 exclusive of costs pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, P.33.

5. Outdoor solid fuel combustion appliances shall be permitted on a lot which has a minimum lot area of 1.2 Ha (3 acres) and the unit shall be located/installed as follows:
 - (a) only in the rear or side yard;
 - (b) at a minimum of 15.24 metres (50 ft.) to any building on the property *or other distance certified by an approved testing agency (as detailed in manufacturer's installation instructions)*;
 - (c) the appliance shall be placed on a non-combustible surface (i.e. gravel, sand, concrete pad) that is a minimum of 3 metres (10 ft) from the unit or compliant with the manufacturer's instructions;
 - (d) the units chimney cap shall be fitted/equipped with a rain cap/spark arrester;
 - (e) in accordance with a site location/installation as approved by the Building Official or designate on the prescribed permit.
6. Notwithstanding the provisions of Clause 5, outdoor solid fuel combustion appliances are not permitted on any lot, which is located within:
 - a) a registered plan of subdivision;
 - b) the following land use designations as identified in the township Official Plan: Community Improvement areas
7. Where such installations are otherwise permitted in this by-law, there shall not be more than one (1) permitted per property in the Township except:
 - a) more than one (1) outdoor solid fuel combustion appliance is permitted on a lot where it serves a permitted accessory dwelling or an agricultural building on lands which are used primarily for agricultural purposes.
8. No appliance shall be erected or installed unless a Building Permit has been obtained from the Chief Building Official or designate.
9. An appliance as defined in Section 1(a), shall only be permitted in accordance with the provisions of this by-law:
 - (a) a new installation shall be permitted if it is located at least 1,000' feet (304.8 metres) from an existing residence on another lot.
 - (b) a new installation shall be permitted if it is located at least 1,000' feet (304.8 metres) from a commercial, industrial or institutional 'building', as defined in the Ontario Building Code Act.
 - (c) this by-law does not apply to existing appliances installed on or before November 7, 2005.
 - (d) if an existing appliance is replaced for whatever reason, any new installation **must** comply with this by-law.
 - (e) if an application for a new lot severance, or an application for a building permit for construction on existing lots of record, within 1,000' feet (304.8 meters) of an existing installed appliance is received by the Township, it will be assumed that the applicant has full knowledge of, and accepts the fact that an appliance exists. The Township assumes no responsibility to inform applicants for severance or building permits that an installed appliance is located within 1,000 feet (304.8 metres) of the property subject to the application.

10. Fuel used in the appliance shall be approved solid-fuel as per the manufacturer's instructions only. Only clean dry wood may be used in uncertified units.
11. If any clause or part of this by-law is found to be illegal or beyond the power of the municipal council to enact , such clause or part shall be deemed to be severable from all other clauses or parts of this by-law.
12. That By-Law No. 2005-62 is hereby repealed as of January 26, 2010.
13. This by-law shall come into force and effect on the day of passing.

Read a first and second time this 26th day of January, 2010.

Read a third time and finally passed this 26th day of January, 2010.

Reeve Douglas J. Pearcy

CAO/Clerk Valerie Przybilla