

# TOWN OF AMHERST

## FIRES AND BURNING OF MATERIALS BY-LAW (C-7)

### 1. SHORT TITLE

This By-Law shall be known as the Fires and Burning By-Law.

### 2. DEFINITIONS

In this By-Law,

**“owner”** has the same meaning as in the Municipal Government Act;

**“Recreational outdoor burning appliance”** means an appliance that is approved by CSA (Canadian Standards Association) or ULC (Underwriters’ Laboratories of Canada) and is designed to contain a small fire for recreation and entertainment purposes, equipped with a spark arrester and includes an outdoor fireplace, an outdoor dome fireplace, or fire pit. This does not include an appliance that is designed or used to provide heat to a building.

### 3. FIRES AND BURNING OF MATERIALS

No person shall light, ignite, start, allow or cause to be lit, ignited or started, or add fuel to, or otherwise permit or encourage to burn, a fire of any kind whatsoever in the open air, except as permitted by this bylaw within the limits of the Town of Amherst.

For greater clarity, the burning of materials, articles or substances in any container outside a building shall be considered burning outdoors. This means any place on a property that is not a building. A structure used mainly for the purpose of containing a burning facility or housing a vessel used for burning of materials or substances, does not qualify as a building. No person shall burn rubber tires, oil, plastic, petroleum products or domestic waste, such as leaf and yard waste including grass and grass clippings, twigs, and house and garden plants; and construction or demolition material, including saw dust, wood shavings, planking, siding, wood beams, plastic and rubber.

Only recreational outdoor burning appliances may be used throughout the Town of Amherst without permit as long as they meet the requirements of this bylaw. Further, the user of these types of appliance shall ensure that the manufactures operating instructions for these appliances are followed and a copy is retained and readily available upon request. In the case where the manufactures operating instructions are stricter than the requirements of defined in this bylaw, then the position and operation of the appliance shall comply with the manufacturer’s instructions, followed by the remaining requirements of this bylaw.

### 4. PERSON IN CHARGE OF THE FIRE

There shall be a person designated as being charge of the fire. This person shall be the owner of the property upon which the burning is taking place, or a person who has the owner consents to conduct the burning. The person in charge shall ensure that:

- a. They are at least the age of nineteen (19) years of age or older and shall have the ability to act quickly without delay if an issue or incident occurs in relation to the fire, and has the means to call 911 from the site, without delay. Shall be present at all times while the fire is burning or smoldering embers are completely extinguished prior to leaving the site after burning is completed;

- b. They are present at all times while the fire is burning or smoldering embers are completely extinguished prior to leaving the site after burning is completed;
- c. They are equipped with tools or equipment to contain an outdoor fire (which may include brooms, rakes, back tanks, shovels and an extinguisher or garden hose shall be available on the property within a reasonable distance from where the fire is located, that has an adequate water supply;
- d. The operating instructions that came with the recreational outdoor burning appliance shall be retained and readily available upon request. In addition, in the case where the operating instructions from the manufacture are stricter than the requirements of in this Bylaw, then the position and operation of the appliance must comply with those operating instructions;
- e. Where the recreational outdoor burning appliance burns wood instead of natural gas or propane:
  - o it shall have a spark arrestor or mesh screen used to contain any sparks or blowing debris, that has no openings larger than 9.65 mm (3/8"). A spark arrestor is a device fitted to a recreational outdoor burning appliance to prevent the release of sparks into the atmosphere or surrounding area;
  - o In the case of using wood, you shall ensure that only clean, dry, untreated wood or charcoal is burned. This means wood that has not been chemically treated, stained or painted, and has been stored in a manner to deter dampness;
  - o The fire shall not exceed 60 centimeters in width at the largest point and not piled higher than 45 centimeters in height; and shall not create an unreasonable interference with a neighboring property owner's enjoyment of his or her property;
- f. Where the recreational outdoor burning appliance burns natural gas or propane it shall not have combustible products added to it while in operation.
- g. Recreational outdoor burning appliances shall not be placed on wooden decks or combustible surfaces or under or near a combustible structure; and that only one recreational outdoor burning appliance is used on a property at a time;
- h. Burning does not take place within 4.75 metres (15 feet) of any dwelling, accessory building, flammable structure, combustible material or property line;
- i. No fire is to be ignited or remain active when the wind speed is in excess of 25 km per hour as reported on the Environment Canada Website for Amherst, Nova Scotia;
- j. Shall ensure that no fires are ignited when a "Non-burn day – Burning is not permitted" indicator is issued for the Cumberland region, by the Nova Scotia department of Lands & Forestry, between the period of March 15th to October 15th or as determined from time to time by the Province of Nova Scotia as set out in the Forest Fire Protection Regulations.

## 5. SPECIAL BURNING PERMIT

In addition, to the requirements and allowances defined in this bylaw there may be a situation where the burning of materials is not defined within this bylaw. In these cases, an application for special burning permit shall be requested by making application to the Fire Chief.

The Fire Chief may issue a special burning permit to an applicant and may prescribe additional requirements within the permit. The Fire Chief, in issuing a permit may specify conditions upon which the permit is granted.

The Fire Chief, in considering an application for a permit may refuse to issue a permit if the Fire Chief is not satisfied that the proposed burning complies with the other provisions of this Bylaw or if the Fire Chief is not satisfied that the proposed burning could be carried out safely. The Fire Chief may revoke a permit issued under this bylaw at any time.

## 6. AUTHORITY

The Fire Chief or anyone who is directed by the Town of Amherst to enforce this bylaw shall have control over the prevention and suppression of fires governed by this bylaw; and may enter upon any land, at any reasonably necessary time, for the purpose of performing their duties and functions pursuant to this Bylaw.

Where it is determined that a fire poses a fire hazard to persons or property, or where there is a failure to meet the requirements of this bylaw, they shall have the authority to extinguish or order extinguished any fire which poses a health or safety hazard to persons or property, or in their opinion that the fire causing a nuisance; or does not comply with the provisions of this Bylaw.

## 7. PENALTY

Any person who violates or contravenes any of the provisions of this bylaw shall, upon conviction thereof, be subject on summary conviction to a fine of not less than one hundred dollars and not more than ten thousand dollars, in accordance with section 505(2) of the Municipal Government Act.

A fine can be applied on an individual by anyone who is directed by the Town of Amherst to enforce this bylaw as follows:

- a. First offence: 250.00
- b. Second offence: \$500.00
- c. Third offence: \$1,000.00
- d. Fourth offence: \$1,500.00

## 8. EXCEPTION

This By-Law shall not apply to persons acting directly under the authority of the Fire Chief of the Amherst fire department in the performance of their duties.

## 9. REPEAL

All Fires and Burning of Materials by-laws of the Town now in force are hereby repealed and this by-law substituted therefor.