

**MUNICIPALITY OF CASSELMAN**

**BY-LAW NO. 2019-XXX**

**BEING** A BY-LAW TO REGULATE OUTDOOR SOLID FUEL COMBUSTION APPLIANCES AND TO REPEAL BY-LAW 2017-069

**WHEREAS** *under Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended*, the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

**AND WHEREAS** *under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended*, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** *under Section 11 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended*, a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in *subsection (4)*;

**AND WHEREAS** The Council of the Municipality of Casselman is empowered by *Section 125 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended*, to regulate the use and installation of heating and cooking appliances;

**AND WHEREAS** pursuant to *Section 128 of the Municipal Act, 2001, S.O. 2001, Chap 25*, authorizes the Municipality of Casselman 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** by motion 2019-373, the Council of the Municipality of Casselman deems it expedient to modify By-Law 2017-069 in order to completely ban outdoor solid fuel combustion appliances in the Municipality of Casselman.

**NOW THEREFORE**, the Council of the Municipality of Casselman enacts as follows:

1. That By-Law 2017-069 is hereby repealed
2. That this By-Law shall come into effect on the passing thereof

**SHORT TITLE**

This By-Law may be cited as the "Outdoor Solid Fuel Burning Appliances By-Law"

**Part 1**  
**DEFINITIONS**

**1.1 Definitions**

In this By-Law,

*“Barbecue”* means but is not limited to portable appliance or grill intended for cooking food above open air fire;

*“By-Law Enforcement Officer”* means a Municipal Law Enforcement Officer of the Corporation of the Municipality of Casselman authorized by the Municipality of Casselman for the enforcement of By-Laws in its jurisdiction;

*“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 the Corporation of the Municipality of Casselman for the purpose of enforcing the Act;

*“Person”* means an individual, business, a partnership or a corporation;

*“Officer”* means a Chief Building Official, Building Inspector or By-Law Enforcement Officer or other person appointed by By-Law to enforce the provision of a By-Law by the Municipality;

*“Outdoor Solid Fuel Combustion Appliance (OSFCA)”* means a solid fuel burning appliance which is used for the space heating of buildings, the heating of water or other such purpose and is located in a separate building or on the exterior of the building or pool to which it serves;

**Part 2**  
**GENERAL REQUIREMENTS**

- 2.1 This By-Law applies to all lands within the geographic limits of the Municipality of Casselman.
- 2.2 No person shall install, use or maintain an outdoor solid fuel combustion appliance within the Municipality of Casselman.
- 2.3 This By-Law does not apply to barbecues or open-air fires.
- 2.4 The Chief Building Official or Municipal Law Enforcement officer may at any reasonable time, enter onto land for carrying out an inspection to determine whether or not the by-law is being complied with.

**Part 3**  
**EXISTING UNITS**

- 3.1 The requirements of this By-Law apply to existing units.

**Part 4**  
**OFFENCES**

- 4.1 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, and Chap 33 as amended.
- 4.2 Each period of three (3) months, on which a person contravenes any provision of this By-Law, shall be deemed to constitute a separate offence under this By-Law as provided for in section 429(2) of the Municipal Act, S.O. 2001, c. 25.
- 4.3 Every person shall comply with any order or notice issued to them under the authority of this By-Law.
- 4.4 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.
- 4.5 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.
- 4.6 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.
- 4.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, a Chief Building Official, a Building Inspector or a By-Law Enforcement Officer in the exercise of a power or the performance of a duty under this By-Law.
- 4.8 Every person who is convicted of an offence is liable to a fine not more than five thousand dollars as provided in the Provincial Offences Act.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL THIS 24<sup>th</sup> DAY OF SEPTEMBER 2019.**

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**Daniel Lafleur, Mayor**

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**Sébastien Dion, Clerk**



