

The Corporation of the Township of Elizabethtown-Kitley

By-law Number 07-08

BEING A BY-LAW TO REGULATE OUTDOOR SOLID FUEL COMBUSTION APPLIANCES

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WHEREAS the Municipal Act, 2001, Section 128 states that 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;

AND WHEREAS the Municipal Act, 2001, Section 129 states that a local municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination;

AND WHEREAS the Municipal Act, 2001, Section 125 stated that a local municipal may regulate the use and installation of heating and cooking appliances;

NOW THEREFORE the Council of the Corporation of the Township of Elizabethtown-Kitley enacts as follows:

1. Definitions:
 - (a) “Outdoor solid fuel combustion appliance” (i.e. outdoor wood burning furnace) means only a certified solid fuel burning appliance, which is used for the space heating of building, the heating of water or other such purpose; and which is located in a 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.
 - (c) “Waste” shall mean any material defined as waste in the Ontario *Environmental Protection Act*, as amended.
2. This by-law applies to all lands within the geographic limits of the Township of Elizabethtown-Kitley.
3. Outdoor solid fuel combustions appliances shall be permitted on a lot which had a minimum lot area of 1.2 HA (3 acres) and the unit shall be located/installed as follows:
 - (i) at a minimum of 46 metres (150 feet) from all property lines;
 - (ii) at a minimum of 9 metres (30 feet) from any building on the property, or other distance by an approved testing agency, as detailed in manufacturer’s installation instructions.
 - (iii) Such that the perimeter ground area around the unit to a distance of 3 metres (10 feet) minimum from the unit shall be of non-combustible surface (i.e. gravel, sand, concrete pad);
 - (iv) The unit’s chimney cap shall be fitted/equipped with a rain cap/spark arrester;
 - (v) In accordance with a site location/installation as approved by the Township.

4. Notwithstanding the provisions of Clause 3, outdoor solid fuel combustion appliances are not permitted on any lot, which is located within:
 - a registered plan of subdivision
 - the south side of County Rd No. 2 (From Lot A-32, Concession 1) and within the south side of Highway No 401 (from Lot 33 to Lot 38, Concession 1)
 - the following land use designations as identified in the Township's Official Plan document: SETTLEMENT AREA; RESIDENTIAL.

5. 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.

6. The installation of outdoor solid fuel combustion appliance shall be in compliance with the Ontario Building Code, the Ontario Fire Code, the manufacture's installation instructions and all other applicable and all other applicable law.

7. No outdoor solid fuel combustion appliances shall be used for the incineration of waste.

8. Any person or persons, who install, use or maintain an outdoor solid fuel combustion appliance in contravention of the provisions of the By-law, are upon conviction, guilty of an offence and subject to a penalty pursuant to the Provincial Offences Act, as amended.

9. Amendments to this By-law may be considered by Council after circulation of the proposed amendment to Township staff and to abutting land owners within 120 metres of the subject site. Circulated landowners would have a reasonable opportunity to present written or oral comments to Council. There shall be an administrative fee of \$200.00 charged to the applicant for this process.

10. Amendments authorized by Council shall be attached to this By-law as 'Appendix A'.

11. The installation of an outdoor solid fuel combustion appliance shall require a permit to be issued by the Township to ensure compliance with this By-law. The permit fee shall be \$100.00.

12. This by-law shall come into force and effect pm the day of passing.

13. That by-law Number 01-31 and 04-59 are hereby repealed.

Read a First and Second time this 22nd day of January, 2007.

Read a Third time and finally **Passed** this **12** day of **February**, 2007.

Signed: Reeve Jim Pickard
Signed: Clerk Yvonne L. Robert

APPENDIX A (Amendments Under Section 9)

- (1) **Pt. Lot, Concession 2, Geographic Township of Kitley; Roll No. 0801 824 049-03800, 756 Line 2**
(By-law 03-22 previously amended By-law 01-31, Popplewell Property)
The minimum distance of the outdoor solid fuel combustion appliances (woodburning furnace) from the east property line may be reduced from 46 m (150 ft.) to 16 m (54 ft.).
- (2) **Pt. Lot 35, Concession 11, Geographic Township of Elizabethtown; Roll No. 0801 000 050-20700, 11170 Rudl Road**
By-law 03-38 previously amended By-law 01-31, Perkins Property
The minimum lot area of 3 ac. for outdoor solid fuel combustion appliances (woodburning furnace) may be reduced to 1.65 ac., the minimum distance of the outdoor solid fuel combustion appliances from the north lot line may be reduced from 150 ft. to 55ft., and the setback from the road may be reduced from 150 ft. to 80 ft.
- (3) **Pt. Lot 10, Concession 4, Geographic Township of Elizabethtown; Roll No. 0801 000 030-20300 (split form), 5725 Fairfield Road**
By-law 03-39 previously amended By-law 01-31, Dowdall Property
The minimum lot area of 1.2 ha (3.0 acres) required to permit an outdoor solid fuel combustion appliance (woodburning furnace) may be reduced to 1 ha (2.5 ac.) for the subject lot. In addition the minimum distance requirement that such an appliance be located a minimum of 46 m (150 ft.) to all property lines may be reduced such that the furnace may be located 36.6m (120 ft.) from the east property line.
- (4) **Pt. Lot 28, Concession 4, Geographic Township of Kitley; Roll No. 0801 824 049-12301, 111 Line 3**
By-law 03-43 previously amended By-law 01-31, Foster Property
The minimum lot area of 1.2 ha (3.0 acres) required to permit an outdoor solid fuel combustion appliance (woodburning furnace) may be reduced to 0.62 ha (1.5 ac. for the subject lot. In addition the minimum distance requirements that such an appliance be located a minimum of 46 m (150 ft.) to all property lines may be reduced such that the furnace may be located 7.3 (24ft.) from the rear property line.
- (5) **Pt. Lot 32, Concession 10, Geographic Township of Elizabethtown; Roll No. 0801 000 050-17800, 10209 Redan Road**
By-law 04-58 previously amended By-law 01-31, Primeau Property
The minimum distance requirement that such an appliance be located a minimum of 46 m (150 ft.) to all property lines may be reduced such that the furnace may be located 24.4 m (80 ft.) from the south (front) property line. The minimum distance requirement that such an appliance be located a minimum of 9 m (30 ft.) to any building on the property may be reduced to 3 m (10 ft.) from the existing shed on the property (CSA) approved distance).