

# **THE CORPORATION OF LOYALIST TOWNSHIP**

## **BY-LAW NO. 2009-36**

Being a By-law to Regulate “Open Air Burning”

**WHEREAS** the Municipal Act, 2001, SO. 2001, as amended, c.25, Part I authorizes a Council to pass by-laws respecting health, safety and well-being of persons;

**AND WHEREAS** section 2.6.3.4 of the Ontario Fire Code provides that 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 WHEREAS** the Municipal Act, 2001 S.O. 2001, as amended, c. 25, Part XII, Section 398(2) authorizes the treasurer of a local municipality to add fees and charges imposed by the municipality to the tax roll and to collect them in the same manner as municipal taxes;

**AND WHEREAS** The Corporation of Loyalist Township has a responsibility to protect life and property from risks of fire;

**NOW THEREFORE** the Council of The Corporation of Loyalist Township hereby enacts as follows:

### **DEFINITIONS**

1. In this by-law,

- (a) “Open Air Burning” means the setting of a fire in the open air for the purpose of burning grass, leaves, petroleum products, household garbage, plastics, rubber, painted or pressure treated lumber or any other rubbish and combustible material and includes burning in barrels, drums, pits, outdoor fireplaces either masonry, metal, or clay pot type, but does not include small confined fires, or fires used to cook on a grill or barbecue that are supervised at all times;
- (b) “Farm Property” means land used by its owner as part of an active and full time farm operation, or the owner of rural property that is in excess of twenty five acres.
- (c) “Container” means any burn barrels, drums, pits, outdoor fireplaces, clay or metal pots;

2. The Fire Department or any Municipal Employee shall **not** give permission at any time to conduct any open air burning on any property within the municipality, except as permitted by this by-law.
3. No person shall conduct “Open Air Burning” in any manner, container or location at any time, except for small confined fires, or fires used to cook on a grill or barbecue, and that are supervised at all times;
4. Burning any material in barrels, drums, or similar containers is strictly prohibited in any area of the Municipality.
5. The owner of “Farm Property” may conduct or may permit another person to conduct open air burning on the farm property provided such burning is conducted strictly in accordance with the following fire safety precautions:
  - (a) All materials to be burned must be dry.
  - (b) No material that will result in excessive fumes or smoke, including household garbage, petroleum, plastics, rubber, painted or pressure treated lumber or other such materials, shall be burned.
  - (c) No open air burning shall be conducted within 90 metres (300 feet) of a building.
  - (d) Only small quantities of material shall be burned at any given time.
  - (e) A person over the age of 18 shall be in attendance and shall supervise all open air burning until the fire is fully extinguished.
  - (f) Equipment and other resources capable of controlling and quickly extinguishing the fire shall be maintained at the site of the open air burning at all times.
  - (g) Open air burning shall not be conducted under one or more of the following conditions:
    - (i) High winds
    - (ii) Dry weather conditions
    - (iii) After sunset

6. Any person who conducts or permits to be conducted open air burning that results in a complaint being made to the municipality or to the Fire Department by another person acting reasonably and in good faith shall be liable to pay to the municipality a fee as set out in Schedule "A" to this by-law for the cost of investigating the complaint if, in the opinion of the Fire Chief or the Fire Chief's designate, smoke or emissions from the open air burning were causing or had caused discomfort to the complainant.
7. Any person who conducts or permits to be conducted open air burning that results in the dispatch of Fire Department vehicles and firefighters for the purpose of extinguishing the fire that is out of control shall be liable to pay to the municipality those fees and charges for the cost of the service as set out in Schedule "B" to this by-law if, in the opinion of the Fire Chief or the Fire Chief's designate, the person was negligent in conducting the open air burning.

#### FEES AND CHARGES

8. All fees and charges payable under this by-law are due and owing to the municipality within thirty (30) days of the date of an invoice rendered to the person liable to pay them.
9. All overdue accounts shall accrue interest at the rate of 1.25% per month (15% per annum), calculated monthly, from the due date until paid in full.
10. If a person who conducts open air burning contrary to this by-law is not the owner of the property but occupies or is using the property with the owner's consent, the owner and the person conducting the open air burning shall be jointly and severally liable to pay any fees and charges imposed by this by-law.
11. All fees and charges payable under this by-law constitute a debt of the person liable for payment of them to the municipality and, in the case of owners of a property being responsible for payment of the fees and charges, the municipality may add the amount owing to the tax roll for the owner's real property and collect them in like manner as municipal taxes.

#### ENFORCEMENT

12. This by-law shall be enforced by a Provincial Offences Officer.
13. Any person who contravenes this by-law is guilty of an offence and upon conviction, shall be liable to a fine as provided for under the *Provincial Offences Act*, c.P.33, R.S.O. 1990, as amended.

VALIDITY

14. It is declared that notwithstanding that any Part or Parts of this by-law, or sections thereof, may be found by any court of law to be invalid or illegal or beyond the power of the Township to enact, such Part or Parts or sections thereof shall be deemed to be severable and that all other Parts or sections of this by-law are separate and independent there from and enacted as such.

REPEAL OF EXISTING BY-LAW

15. That Loyalist Township By-law 2007-84 and any and all by-laws or portions thereof conflicting with this By-law are hereby repealed.

EFFECTIVE DATE

16. That this by-law shall come into force and take effect on the day of its passing.

ENACTED AND PASSED this 25<sup>th</sup> day of May, 2009.

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Reeve

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Clerk

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**APPENDIX 'A'**

Costs to respond to and investigate an "Open Air Burning" complaint: \$75.00 per incident.

**APPENDIX 'B'**

Costs for each fire apparatus required for extinguishment:

\$350.00 per hour per vehicle

\$175.00 per each additional ½ hour per vehicle

Plus payment of costs of all firefighters required to respond calculated at the current hourly rate times the number of hours times the number of firefighters.