

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

BY-LAW 34-10

Being a by-law restricting open air fires
within the Municipality of Leamington.

WHEREAS s.7.1 of The Fire Protection and Prevention Act, 1997, S.O. 1997, c.4 as amended, (FPPA), authorizes the council of a municipality to pass by-laws regulating the setting of open fires and regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS section 130 of the Municipal Act S.O. 2001, c.25 as amended, provides that municipalities may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS section 427 of the Municipal Act empowers a municipality to enter upon private land, take remedial action and to recover all costs from the property owner;

AND WHEREAS it is deemed expedient by the Council of the Municipality of Leamington to restrict the setting of open air fires;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON ENACTS AS FOLLOWS:

1. DEFINITIONS:

In this by-law;

“attended” means having present a responsible person, at least 18 years old with sufficient equipment to control or extinguish a fire;

“barbecue” means a portable or fixed device designed and intended solely for the cooking of food in open air, but does not include outdoor fireplaces and campfires;

“building” means any structure used or intended for supporting or sheltering any use or occupancy;

“Fire Chief” means the Fire Chief of the Municipality of Leamington Fire Services or designate;

“highway” means a common and public roadway and includes any bridge, trestle, viaduct or other structure forming part of a highway and , except as otherwise provided, includes a portion of a highway;

“hazardous materials” includes, but is not limited to, tires, plastics, asphalt products, painted or stained wood, plywood or other laminates, pressure treated wood , or any material designated as hazardous in any legislation enacted by the Ontario or Federal government;

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“municipality” means The Corporation of the Municipality of Leamington or the geographic area of the Corporation of the Municipality of Leamington or the geographic area of responsibility covered by the Leamington Fire Services, as the context requires;

“municipal law enforcement officer” means police officers and any person appointed by the Council of the Corporation of the Municipality of Leamington to enforce municipal by-laws and includes the fire chief and designates;

“open air fire” means any fire set outside of a building;

“owner” means the registered owner or any person having control over, or possession, of any portion of the building or property;

“permit holder” means the person to whom a permit is issued pursuant to Section 13 of this by-law.

“rubbish” includes any waste material.

GENERAL PROHIBITION

2) No person shall set or permit an open air fire.

EXCEPTIONS

3) Section 2 does not apply to:

- a) Open air fires for which a permit has been issued pursuant to Section 13 herein,
- b) open air fires which consists of a small flame, supervised at all times, and used to cook food on a grill or a barbeque,
- c) Open air fires within a natural gas or propane appliance that is in conformance with the Technical Standards and Safety Act, is for outdoor use and is installed with the manufacturer’s instructions, or
- d) Open air fires in an area designated Agriculture Zone A1 to A4 inclusive in the municipality’s comprehensive zoning by-law, By-law 890-09, that burn only the remains of any crop grown on the same property as the site of the fire provided the fire is started and maintained in compliance with guidelines issued by the Fire Chief.

PROHIBITIONS FOR ALL OPEN AIR FIRES

- 4) No person shall fail to comply with a permit issued pursuant to section 13 herein.
- 5) No person shall set or permit an open air fire that burns rubbish.
- 6) No person shall set or permit an open air fire that burns hazardous materials.
- 7) No person shall fail to ensure an open air fire is attended at all times.
- 8) No person shall set or permit an open air fire which causes a nuisance by smoke or odour.

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- 9) No person shall set or permit an open air fire which causes a decrease in visibility on any highway.
- 10) No person shall transport material of any kind from one site to another for the purpose of disposing of this material by burning in an open air fire.
- 11) No person shall fail to extinguish a fire when ordered to do so by the Fire Chief.

OPEN AIR FIRE PERMIT

- 12) A person may apply to the Fire Chief to obtain a permit to allow an open air fire
- 13) The Fire Chief may issue a permit to a person to set an open air fire provided the Fire Chief is satisfied the fire will be conducted in a safe manner and is unlikely to create a nuisance. The application and permit shall be in the form of Schedule A which is attached and forms part of this by-law.
- 14) A permit issued pursuant to Section 13 is non-transferable.

REVOCACTION OF PERMIT

- 15) A permit issued pursuant to Section 13 of this by-law may be revoked by the Fire Chief if, in the opinion of the Fire Chief, a dangerous condition exists in or near the site of the open air fire.
- 16) A permit issued pursuant to Section 13 of this by-law may be revoked by the Fire Chief if the permit holder fails to comply with the conditions contained on the permit or any provision of this by-law.

ORDER TO EXTINGUISH FIRES

- 17) Despite any other provision of this by-law, if on reasonable grounds the Fire Chief has any concerns for safety, then the Fire Chief may at any time order or cause to be extinguished any fire until such time as the Fire Chief determines.

RESPONSIBILITY FOR COSTS

- 18) Every person who sets a fire in contravention of this by-law or who fails to extinguish a fire once ordered to do so by the Fire Chief, shall, in addition to any penalty provided for herein, be liable to the municipality for all expenses incurred for the purpose of investigating, controlling and extinguishing any fire set or left to burn including vehicles, manpower and other firefighting costs, and such expenses may be recovered by court action or in a like manner as municipal taxes.
- 19) Any municipal law enforcement officer may enter upon any property in the municipality in order to ascertain whether the provisions of this by-law are being obeyed. A municipal law enforcement officer is hereby further empowered to enforce or carry into effect the provisions of this by-law.

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OFFENCE

- 20) Any person who contravenes any provision of this by-law is guilty of an offence and shall be liable, on conviction, to a penalty in accordance with the provisions of the Provincial Offences Act, R.S.O. 1990 Chapter P.33, as amended from time to time.

VALIDITY

- 21) If a court of competent jurisdiction declares any provision or part of a provision of this by-law to be invalid or to be of no force and effect, it is the intention of Council that the remainder of the by-law shall continue to be in force.

SHORT TITLE

- 22) This by-law shall be known as the "Open Air Fire By-law".

EFFECTIVE DATE

- 23) This by-law shall come into force on the date of the third reading and final adoption of this by-law by the Council of The Corporation of the Municipality of Leamington.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY ENACTED THIS 26th DAY OF APRIL, 2010.

Signature on file

JOHN ADAMS, Mayor

Signature on file

BRIAN R. SWEET, Clerk

SCHEDULE A**By-law 34-10****OPEN AIR FIRE PERMIT**

(Not Required for Burning Crops in Agricultural Areas A1 to A4)

Address of Fire: _____

Items to be Burned: _____

Method of Containment to be Used: _____

Date of Burn: _____ Expected Start Time: _____ Expected End Time: _____

Name of Owner: _____

Owner's Mailing Address: _____

Owner's Home Phone Number: _____ Owner's Cell Phone Number: _____

Signature of Applicant**THIS PERMIT IS VALID ONLY FOR DATES SPECIFIED**

In accordance with the Ontario Fire Code, Ontario Regulation 388/97 Subsection 2.6.3.4.

REQUIREMENTS:

- Prior to burn, property owners must have written confirmation of open air fire approval.
- Pile not to exceed _____ while burning (will be assessed at time of issue).
- Persons supervising the fire, to be with the fire at all times.
- Burning limited to the address above.
- Weather conditions must be favourable.
- Fire Chief or designate to be notified when starting to burn.
- Any contraventions will terminate permit
- No burning of hazard materials i.e. petroleum products, roofing materials, tires, railroad ties, etc.
- There must be a method of controlling fire with fire extinguisher or other method.
- Approval must be obtained no later than 30 minutes prior to start of the open air fire.

The owner shall be solely liable for any or all damage resulting from an open air fire. A copy of the Open Air Fire By-law is available at the Municipal Office and online at www.learmington.ca

Date of Authorization: _____

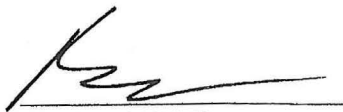
Valid For: _____

Signature of Fire Chief

ONTARIO COURT OF JUSTICE**PROVINCIAL OFFENCES ACT****PART I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and the By-law Number 34-10, of the Municipality of Leamington, attached hereto is the set fine for that offence. This Order is to take effect May 12, 2010.

Dated at London, Ontario this 12th day of May 2010.



Kathleen E. McGowan
Regional Senior Justice
West Region

Set Fine Schedule**THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON****Part 1 Provincial Offences Act**

By-law 34-10 : Being a by-law restricting open air fires within the Municipality of Leamington.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Set an open air fire	Section 2	\$125.00
2	Permit an open air fire	Section 2	\$125.00
3	Fail to comply with permit	Section 4	\$125.00
4	Burn rubbish	Section 5	\$125.00
5	Permit burning of rubbish	Section 5	\$125.00
6	Burn hazardous materials	Section 6	\$125.00
7	Permit burning of hazardous materials	Section 6	\$125.00
8	Fail to ensure fire is properly attended	Section 7	\$125.00
9	Set a fire which causes a nuisance	Section 8	\$125.00
10	Permit a fire which causes a nuisance	Section 8	\$125.00
11	Set a fire which decreases visibility on a highway	Section 9	\$125.00
12	Permit a fire which decreases visibility on a highway	Section 9	\$125.00
13	Transport material to site for burning	Section 10	\$125.00
14	Fail to extinguish a fire	Section 11	\$125.00

Penalty Provision for the offences indicated above in Section 20 of By-law 34-10, a certified copy of which has been filed.