



THE CORPORATION OF THE TOWNSHIP OF DAWN-EUPHEMIA

By-Law 2017- 09

Being a By-Law to Regulate the Setting of Open Air Fires and to Identify the Precautions and Conditions to be observed for such Fires in the Township of Dawn-Euphemia

WHEREAS Section 128 of the *Municipal Act, R.S.O. 2001, c. 25* provides that a municipal Council may pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

WHEREAS Council is empowered under Section 391 of the *Municipal Act, 2001, c.25* as amended, to pass a by-law imposing a fee or charge on any class of persons for services or activities provided or done by or on behalf of it; and

WHEREAS Section 425 of the *Municipal Act, R.S.O. 2001, c. 25* provides that a municipal Council may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence; and

WHEREAS Section 444 of the *Municipal Act, R.S.O. 2001, c. 25* provides that if a municipality is satisfied that a contravention of a by-law of the municipality passed under the Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity; and

WHEREAS Section 446 of the *Municipal Act, R.S.O. 2001, c. 25* provides that when a municipality has the authority under this or any other Act to direct or require a person to do a matter or thing, the municipality may:

- provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;
- enter upon the land at any reasonable time;
- recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes; these costs shall include interest calculated at a rate of 15 percent or such lesser rate commencing on the day the municipality incurs the cost;
- apply the said costs, including interest, to constitute a lien on the land upon the registration in the proper land registry office of a notice of lien; and

WHEREAS Section 426 of the *Municipal Act, R.S.O. 2001, c. 25* provides that no person shall hinder or obstruct or attempt to hinder or obstruct any person who is exercising a power or performing a duty under this Act or a by-law under this Act, and that any person who contravenes this is guilty of an offence; and

WHEREAS Section 7.1 (1) of the *Fire Protection and Prevention Act, R.S.O. 1997, c.4* authorizes Council to pass by-laws regulating fire prevention, including the prevention of the spreading of fires and regulating the setting of open air fires, including the times during which open fires may be set;

WHEREAS Section 7.1 (4) of the *Fire Protection and Prevention Act, R.S.O. 1997, c.4* authorizes Council to appoint officers to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

NOW THEREFORE the Council of the Corporation of the Township of Dawn-Euphemia enacts as follows:

1. DEFINITIONS

In this by-law:

“Acceptable Burn Material” means commercially produced charcoal or briquettes, small amounts of white or brown paper or cardboard used to start a fire, dry seasoned wood, dry wood by-products that have not been chemically treated, painted or stained, purchased fire logs or purchased firewood sold for the purpose of recreational fires;

“Agricultural Waste” shall include any animal/human fecal deposits or manure, and animal carcasses;

“Barbeque” means a portable or fixed device designed and intended solely for the cooking of food in the open air (including a hibachi), but does not include devices designed for personal warmth, fire pits, campfires/recreational fires, or outdoor fireplaces;

“Bio solids” means solids, slime solids or liquid slurry residue generated during the treatment of domestic sewage and intended for agricultural use as a soil conditioner or fertilizer;

“By-law Enforcement Officer” means the respective individual/s appointed by the Township of Dawn-Euphemia to complete the said duties;

“Competent Adult” means any person 18 years of age or older who, in the opinion of the owner of the property, is capable of exercising the required judgement of the necessary actions to comply with the requirements of this by-law;

“Domestic Waste” shall include kitchen waste, food, scraps, cloth, rags, clothing, plastics and any other materials which contents include any of the aforementioned;

“Fire Ban” shall mean a period of time during which the Fire Chief, declares a total ban on Open air fires;

“Fire Chief” means the Fire Chief of the Dawn-Euphemia Fire Department as appointed by the Township of Dawn-Euphemia, and his/her appointed designate(s), being senior officers/members of the Fire Department and/or Mutual Aid/Automatic Aid partnering Fire Departments operating under the direction of the Fire Chief of Dawn-Euphemia;

“Fire Department” means the Dawn-Euphemia Fire Department;

“Industrial Waste” shall include used automobile and truck bodies, tires, oil, grease, paint, cloth, rags, plastics or other material which contents include any of the aforementioned;

“Municipality” means The Corporation of the Township of Dawn-Euphemia;

“Notification Form” means a form used to notify the Municipality to set a fire in the Open Air for a specified date and period of time.

“Noxious materials” shall include tires, plastics, rubber products, drywall, demolition waste, construction waste, paint, animal organic waste, vegetable waste, food waste, biomedical waste, tar, asphalt products, battery boxes, pressure treated wood, creosote-treated wood and painted wood;

“Nuisance” shall include excessive smoke, smell, airborne sparks or embers that is likely to disturb others, or that is likely to reduce visibility on roads and/or railways in the vicinity of the Open Air Burning;

“Open Air” means any open place, yard, field, lot, part lot or construction area which is not enclosed by a building or structure;

“Open Air Burning” means any fire set in the open air, producing heat or smoke, which includes the burning of material such as wood, tree limbs and branches, where the flame is not wholly contained, and includes recreational fires, brush fires, windrows and outdoor fireplaces, but does not include barbeques;

“Owner” means the registered owner or any person, firm or corporation having control over, or possession of, any portion of the building or property under consideration, and may include other person/s in the building or on the property;

“Person” shall include an individual, a business, a partnership or a corporation;

“Police” means the Ontario Provincial Police (OPP);

“Recreational Burning” means the burning of material in a burning device specifically designed to contain a fire for the purpose of a campfire and/or outdoor cooking of food;

“Rural Area” means the lands that are designated under the municipality’s Official Plan for Agricultural use in the Township of Dawn-Euphemia;

“Urban/Residential Area” means the lands that are designated under the municipality’s Official Plan for Residential use in the Township of Dawn-Euphemia, which includes the hamlet of Florence, and any area that is considered to be a built-up residential area.

2. GENERAL PROVISIONS

- (a) No person shall conduct an open burn within the Township of Dawn-Euphemia unless the they have spoken directly to, and submitted a completed Open Air Burning Notification Form (Schedule” A”) to, the Municipal Office during business hours, at least 48 hours prior to the burn.

- (b) The Open Air Burning Notification Form shall only be valid for the date (or range) indicated on the form, however, there may be provisions for changes to, or extended dates for the open air burn, provided the person speaks directly to, and amends the Open Air Burning Notification Form for the change/extension with, the Municipal Office during business hours. Date ranges are limited to up to 2 weeks (14 days) in length.
- (c) All Open Air Burning shall comply with the provisions of the Environmental Protection Act, R.S.O. 1990, as amended
- (d) The Fire Chief may revoke any or all issued Open Air Burning Notification Forms.
- (e) The Fire Chief may, at all times, enter and inspect any property or premises in order to ascertain whether the provisions of this by-law are complied with and to enforce or carry into effect the by-law.
- (f) The Dawn-Euphemia Fire Department (and Mutual Aid/Automatic Aid partnering Fire Departments) shall be exempt from this by-law for the provision of education and training purposes for members of their respective Fire Departments. The Dawn-Euphemia Public Works Department shall be exempt from this by-law for the purpose of carrying out the responsibilities of the Public Works Department.
- (g) No person shall set a fire or allow a fire to burn on any land of which he/she is not the registered owner, without the permission of the registered owner.
- (h) No person shall burn industrial waste, agricultural waste, domestic waste, noxious materials, petroleum products, rubber, painted lumber, mixed demolition debris or anything else that will cause excessive smoke or fumes, in addition to any other material identified in the regulations contained in the Environmental Protection Act.
- (i) Any material which is known to smoulder or self-combust such as, but not limited to, bio solids, agricultural waste or wood chips, must be spread within 48 hours of being brought into the Municipality. Time limit extensions are at the discretion of the Fire Chief.
- (j) No person shall conduct or permit to be conducted burning when the wind condition is in such direction or intensity so as to cause a decrease in visibility on any highway, road or railway, to threaten a rapid spread of fire through a grass area, brush area or standing crop in a farm field, or to cause smoke which causes annoyance or irritation to adjacent persons, properties or premises.
- (k) No person shall conduct or permit to be conducted burning that is hazardous and presents potential health concerns or hazards to adjacent persons or properties. Steps must be taken to ensure that neighbours and or adjoining properties are not affected by smoke hazards relating to health conditions of a person or persons in the vicinity of the burn including causing discomfort to persons, loss of enjoyment or normal use of property, interference with normal conducting of business or damage to property and the smoke or other emissions from the fire shall not travel across any public roadway to the extent that it may cause a public safety hazard to anyone travelling on the roadway. Should such a complaint be received by the Municipality or by the Ontario Provincial Police regarding public safety and welfare due to fire and smoke hazards or health concerns, the authorized officer will have the discretion to determine the compliance and his/her decision will be final.

- (l) Any person lighting a fire or burning within the Municipality shall have the duty to conduct burning within compliance of this by-law and ensure no fire ban is in place. Information is available on the Township's website and electronic message board at the Municipal Office, signage at the fire station, or by contacting the Municipal Office.
- (m) Every person who sets any open air fire in the Municipality of Dawn-Euphemia shall be responsible and liable for any damage to property or injury to person resulting from the said fire.

3. FEES & PENALTIES

- (a) If the contravention of this By-Law results in fire suppression or fire safety personnel and vehicles being dispatched to respond, the person in control of the fire and/or the property owner/tenant may be charged, at the discretion of the Fire Chief, for the cost of such response according to the fees as attached to this By-law as Schedule "B".
- (b) If any person, firm or Corporation who deliberately sets a fire (without speaking directly to, or having failed to submit a completed Open Air Burning Notification Form to the Municipal Office during business hours) in the open air, to any grass, combustible material, leaves, refuse or other material, within the limits of the municipality, which fire gets out of control and/or complained about, and to which fire the Township Fire Department is called to extinguish, shall be assessed a penalty as set forth in Schedule "B".
- (c) The fee, if not paid voluntarily, shall be assessed as a penalty for an infraction of this By-law and added to the taxes owing against that property and collected in the same manner as municipal taxes.
- (d) Nothing in any schedule of fees shall be construed as limiting the rights of the Township to seek restitution for other direct or consequential damages or costs incurred beyond those listed.
- (e) The Fire Chief has the authority to waive, reduce, or otherwise vary a fee or charge in accordance with the general criteria of this by-law.
- (f) Fees to be made payable to the Township of Dawn-Euphemia.

4. FIRE BAN

- (a) No person shall start a fire or permit the setting of a fire, or allow a fire to burn in a restricted fire zone, or fire ban, or during a Smog Alert/Poor Air Quality Day, as issued for an area that includes the Municipality or any part of Lambton County.
- (b) The implementation and subsequent lifting of a fire ban in the municipality shall be at the sole discretion of the Fire Chief.
- (c) Despite the existence of an Open Air Burning Notification Form, the Fire Chief, may issue a ban on any or all open air burning, or may suspend without recourse any or all open air burns and cause to be extinguished any or all open air burning until such conditions as the Fire Chief may indicate, are met.

5. ORDER TO EXTINGUISH UNAPPROVED FIRES

- (a) When made aware of prohibited burning not authorized under this by-law, the Fire Chief shall order the land owner or occupant to immediately extinguish the fire.
- (b) Effective means of extinguishment shall be readily available at all times by the competent adult responsible for the open air burn.
- (c) The land owner or occupant of the land on which a prohibited burning is located shall immediately extinguish the fire upon being ordered to do so by the Fire Chief.
- (d) Should the land owner or occupant of the land fail to extinguish the fire when ordered to do so, the Fire Chief may take action to have the fire extinguished. The person who owns the land or occupant of the land can be held liable for any costs incurred to extinguish the fire by the Dawn-Euphemia Fire Department. Any further occurrences of ignition could result in the person in control of the fire and/or the property owner may be charged, at the discretion of the Fire Chief, for the cost of such response as set out in Schedule "B".
- (e) Repeat attendance of the Fire Chief or the Fire Department at a property to order extinguishment of a fire, or respond to a fire that has not been properly extinguished, shall result in a fee as outlined in Schedule "B".

6. SPECIAL PROVISIONS – URBAN/RESIDENTIAL AREAS

- (a) No person shall conduct or permit to be conducted an open air burn, other than recreational burning, within the urban areas of the municipality.
- (b) No person shall conduct or permit to be conducted recreational burning between the hours of 11 p.m. and 7 a.m.
- (c) No person shall conduct or permit to be conducted Recreational Burning in an open burning device or a pit larger than 2 feet x 2 feet in size (61 cm x 61 cm). When in use the open burning device or pit shall be covered with heavy-gauge metal screen with mesh size no larger than ½ inch (13 cm), and which is positioned in such a manner as to preclude the escape of combustible material, including ash.
- (d) No person shall conduct or permit to be conducted recreational burning in an open burning pit device having more than 6 inches (15 cm) of the containment area above grade with a total maximum depth of 10 inches (25 cm). The device used for the containment area should be constructed so that combustion is enhanced and smouldering is eliminated.
- (e) No person shall conduct or permit to be conducted recreational burning using materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood, not including pressure-treated wood or creosol-treated wood.
- (f) No person shall conduct or permit to be conducted recreational burning using wood greater than the size of the device or fire pit. Burning materials shall be totally confined within the device and/or pit at all times.
- (g) No person shall conduct or permit to be conducted recreational burning in a location that does not provide for the minimum distance of 9 feet (3 m) in all directions from adjacent properties.

- (h) No person shall conduct or permit to be conducted recreational burning in an area that does not provide a minimum of 24 feet (8 m) from any combustible structure, material or objects.
- (i) No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on or in any public street, alley, road or other public ground.
- (j) No person shall kindle or maintain a fire upon the land of another without the permission of the registered owner.
- (k) No person shall throw down or drop any lighted match, cigar, cigarette or other burning substance in any combustible material or in close proximity thereto.
- (l) No person shall conduct or permit to be conducted recreational burning without an effective extinguishing agent of sufficient size and with the capacity to immediately extinguish it. The extinguishing agent must be on-site at all times within the immediately proximity of the fire.
- (m) No person shall conduct or permit to be conducted recreational burning that is not attended, controlled and supervised by a competent adult at all times, who shall ensure that the fire is completely extinguished before vacating the area.
- (n) No person shall use a barbeque that is not supervised at all times by a competent adult, and that is not fuelled with commercially produced charcoal, briquette or a flammable product commercially produced for the purpose of cooking, such as natural gas or propane.

7. SPECIAL PROVISIONS - RURAL AREAS

The following regulations shall apply with respect to open air burnings in the rural areas of the Township of Dawn-Euphemia:

- (a) No person shall conduct or permit to be conducted an open air burning in the rural areas for the purpose of demolition cleanup or large brush piles without speaking directly to, and submitting a completed "Open Air Burning Notification" form (Schedule "A") to the Municipal Office during business hours. Open burning of standing buildings will not be permitted – all buildings must have been knocked down to ground level prior to open burning taking place.
- (b) No person shall conduct or permit to be conducted open air burnings in rural areas between the hours of sunset and sunrise.
- (c) No person shall conduct or permit to be conducted open air burning in rural areas containing chemical residue or other noxious chemicals. No person shall burn industrial waste, agricultural waste, domestic waste, noxious materials, petroleum products, rubber, painted lumber, mixed demolition debris or anything else that will cause excessive smoke or fumes in addition to any other material identified in the regulations contained in the Environmental Protection Act.

- (d) No person shall conduct or permit to be conducted open air burning in rural areas that is not attended (must have direct visual view of the burn site), controlled and supervised by a competent adult at all times who shall ensure that the fire is completely extinguished before the burn site is vacated.
- (g) No person shall conduct or permit to be conducted open air burnings in a rural area that is within 150 feet (45 m) from any building, highway, road, combustible material, crop, or wooded area.
- (h) A person may conduct an open air fire for normal farm/rural practises if it is part of a normal farm practice carried on as part of an agricultural operation, as terms defined in the Farming and Food Production Protection Act 1998, on lands zoned for agricultural use, and subject to the conditions set out in this By-Law. A person conducting an open air fire shall comply with the conditions set forth in this By-law.

8. ADMINISTRATION & ENFORCEMENT

- (a) The Municipality shall be responsible for the administration of this by-law.
- (b) Enforcement of this by-law is the responsibility of the Dawn-Euphemia Fire Chief, and/or designate, Officers of the Ontario Provincial Police as well as the municipality's By-law Enforcement Officers (as appointed by Council) will assist if requested by the Fire Chief and/or the Administrator-Clerk.
- (c) The Municipality may recover the costs of extinguishing the fire from the person directed to extinguish the fire by action, and/or by invoicing, and/or by adding the costs to the tax roll and collecting them in the same manner as property taxes. All fees and charges invoiced under this by-law and not paid by the due date shall become payable in the manner and subject to any interest and penalties permitted to be charged under the Municipal Act 2001, and such expenses may be recovered by court action or in a like manner as municipal taxes.

9. ENFORCEMENT OFFICERS AND POWERS

The Township of Dawn-Euphemia for the purposes of enforcement of this by-law has appointed the following persons to implement enforcement:

- Fire Chief of the Dawn-Euphemia Fire Department
- Fire Chief designate/s of the Dawn-Euphemia Fire Department
- Officers of the Ontario Provincial Police
- By-law Enforcement Officer/s appointed by the Township of Dawn-Euphemia
- Mutual Aid/Automatic Aid Partnering Fire Departments under the direction of the Dawn-Euphemia Fire Chief.
- Any individual deemed to be necessary to enforce this by-law, appointed by the Township of Dawn-Euphemia

10. INVESTIGATION

The Fire Chief and/or any individual who is appointed by the Municipality for the purposes of enforcement can enter onto private property to determine if a violation of regulation is taking place and/or to inspect to ensure a prohibited fire is not burning.

11. SEVERABILITY

- (a) If any section or sections of this by-law or parts thereof are found by any court to be illegal or beyond the power of Council to enact, such sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent thereof and enacted as such.
- (b) If any person fails to pay the fees set out, forthwith upon demand, the amount of the fee in default may, in addition to any other remedies the Municipality may have, be recovered by the municipality in like manner as municipal taxes in accordance with Section 398(2) of the Municipal Act S.O.2001, c.25, against the owner of the land, if the owner set the fire, allowed the fire to burn, or permitted the fire to be set or to burn, in violation of this by-law or any permit issued under this by-law.
- (c) Any person who contravenes any provision of this By-law is guilty of an offense and may be charged in accordance with the terms of the Fire Protection and Prevention Act as amended, Part 2 subsection 2.6.3.4 of the Ontario Fire Code, in addition to the requirement to pay the fees as set out in this by-law.

12. INDEMNIFICATION

- (a) The Owner/tenant shall defend, indemnify and save harmless the Township of Dawn-Euphemia its elected officials, volunteers, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Dawn-Euphemia Fire Department, its volunteers, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this By-Law.

The Owner/tenant agrees to defend, indemnify and save harmless the Township of Dawn-Euphemia from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever arising out of or related to this By-law.

12. SHORT TITLE

The short title of this by-law shall be "Open Air Burning By-law". A schedule with set fees and penalties is attached as Schedule "B".

13. EFFECTIVE DATE

This by-law shall come into full force and take effect upon the final passing thereof.

TAKEN AS READ A FIRST, SECOND AND THIRD TIME, AND FINALLY ADOPTED THIS 21ST DAY OF FEBRUARY, 2017.

Mayor

Clerk

SCHEDULE "A"

THE CORPORATION OF THE TOWNSHIP OF DAWN-EUPHEMIA

4591 Lambton Line, RR 4, Dresden ON, N0P 1M0 Tel: 519-692-5148 Fax: 519-692-5511

Email: admin@dawneuphemia.on.ca Fire Chief: David Williams



OPEN AIR BURNING NOTIFICATION

(VALID ONLY ON DATES SPECIFIED)

(Print Clearly)

NAME		DATE
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Last Name	First Name	Phone
		Fax

Called-In <input type="checkbox"/>	Emailed <input type="checkbox"/>	In-Person <input type="checkbox"/>	Faxed <input type="checkbox"/>	Mailed-In <input type="checkbox"/>
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I am the registered property owner; or I have the permission of the registered property owner.

MAILING ADDRESS

Street Address	City/Town	Postal Code
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ADDRESS LOCATION OF PROPOSED FIRE

Street Address	City/Town	Nearest Intersection
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DETAILED MAP

<div style="border: 1px solid black; height: 200px;"></div>	Materials to Burn
Proposed Dates	

mm/dd/yy mm/dd/yy	
cannot exceed 2 weeks	
Proposed Times	
_____ to _____	
a.m./p.m a.m./p.m.	
Duration of Proposed Burn	
# of days	

BURN SUPERVISOR (Must be 18 years of age or older)	Describe Proximity of Proposed Fire to: (specify metres or feet)
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Last Name	Phone	Building(s): _____
		Overhead Wires: _____

First Name	Cell	Other Combustibles: _____
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FOR OFFICE USE ONLY:

<input type="checkbox"/> Date Received _____ <input type="checkbox"/> Fax to CACC _____ <input type="checkbox"/> Processed by _____	I/We have received and carefully reviewed the contents of the "Open Air Burning By-Law" applicable in the Township of Dawn-Euphemia and agree to the terms and conditions stated therein. I further agree to indemnify the Corporation of the Township of Dawn-Euphemia against any liability or claims incurred or any costs or expenses in controlling or extinguishing the fire contemplated under this Notification Form and against all losses, costs, charges and expenses which may incur in consequences thereof. Signature: _____
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You must contact the Municipal Office during business hours with ANY changes - 519-692-5148.

SCHEDULE "B"
FEE SCHEDULE

1. Cost Recovery Fees:

- | | |
|--|-------------------|
| (a) First hour (or part thereof) | \$350 per vehicle |
| (b) Each additional half hour | \$175 per vehicle |
| (c) Fire Chief's attendance – repeat offense | \$200 per visit |

2. Penalty for Setting a Fire WITHOUT submitting an Open Air Burning Notification Form or Speaking Directly to an employee of the Municipal Office:

- (a) Five Hundred Dollars (\$500) for the first offence
- (b) One Thousand Dollars (\$1,000) for the second offence
- (c) Two Thousand Dollars (\$2,000) for the third or more offense(s)
- (d) Two Hundred Dollars (\$200) per visit for repeat attendance of the Fire Chief and/or Fire Department.

Note:

1. Fees and penalties to be made payable to the Township of Dawn-Euphemia.
2. If the contravention of this By-Law results in fire suppression or fire safety personnel and vehicles being dispatched to respond, the person in control of the fire and/or the property owner/tenant may be charged, at the discretion of the Fire Chief, for the cost of such response according to the fees shall be as follows:
3. The Municipality may recover the costs of extinguishing the fire from the person directed to extinguish the fire by action, and/or by invoicing, and/or by adding the costs to the tax roll and collecting them in the same manner as property taxes. All fees and charges invoiced under this by-law and not paid by the due date shall become payable in the manner and subject to any interest and penalties permitted to be charged under the Municipal Act 2001, and such expenses may be recovered by court action or in a like manner as municipal taxes.
4. Nothing in any schedule of fees shall be construed as limiting the rights of the Township to seek restitution for other direct or consequential damages or costs incurred beyond those listed.
5. The Fire Chief has the authority to waive, reduce, or otherwise vary a fee or charge in accordance with the general criteria of this by-law.