

**THE CORPORATION OF THE
MUNICIPALITY OF ARRAN-
ELDERSLIE**

BY-LAW NO. 4 - 2022

**A By-law to Amend Bylaw 19-2021, A By-Law to Regulate Open Air
Burning within the Municipality of Arran-Elderslie**

Whereas the Municipal Act, 2001, c25, s130 states, a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the Municipality; and

Whereas the Fire Protection and Prevention Act, 1997, S.O. 1997 c4, Section 7.1(1) a Council of a Municipality may pass by-laws,

a) regulating fire prevention, including the prevention of the spreading of fires; and

b) regulating the setting of open-air fires, including establishing the times during which open air fires may be set; and

Whereas the Council of the Corporation of the Municipality of Arran-Elderslie deems it necessary and advisable to pass a by-law pursuant to the above section; and

Whereas the Municipal Act, 2001, c25, s425 permits Municipalities to pass By-laws creating offences; and

Whereas the Municipal Act, 2001, c25, s429 grants Municipalities the power to establish fines and set monetary parameters for those fines; and

Whereas the established fines for failing to adhere to this By-law are set out in Schedule 'A' hereto.

Now Therefore the Council of the Municipality of Arran-Elderslie hereby enacts as follows:

1. Definitions

1.1 "Agricultural Open Air Burn Permit" means a permit issued to the owner of an Agricultural Property for the burning of vegetation including brush, tree limbs and stumps on farm lands which is normal and incidental to farming activities, issued in accordance with this By-law.

1.2 "Agricultural Property" means any lands designated as an agricultural zone under the provisions of the Municipality's Zoning By-law and any property where the predominant use is for agricultural purposes.

1.3 "Approved" means approved by the Chief Fire Official or his/her designate. Approval is in the form of an 'Open Air Burn Permit' issued by the Arran-Elderslie Fire & Emergency Services.

1.4 "Burn barrel" means a small fire set in a barrel with a capacity not greater than 205 litres (45 gallon). This type of burning is only permitted in "Rural" areas under "Non-Agricultural" permit and issued in accordance with this By-law.

1.5 "By-law Enforcement Officer" means any employee or contractor appointed by the Municipality of Arran-Elderslie to enforce or carry out the provisions of this By-law or any part or parts thereof.

1.6 "Campfire/bonfire" means a small fire set in a fire pit or tire rim or other device designed to burn firewood for cooking or warmth and shall not exceed 1 metre (3.3 feet) in diameter issued in accordance with this By-law.

1.7 Central Business District

- a) that portion of the Chesley Ward described as 1st Avenue, 2nd Ave SW (East side properties only), 2nd Ave SE (west side properties only) from the Main Street Bridge south to 3rd Streets Southwest and Southeast – Refer to Schedule "B"
- b) that portion of the Paisley Ward described as Queen Street from Church Street south to Inkerman Street – Refer to Schedule "B"
- c) that portion of the Tara Ward described as Yonge Street from Bruce Street south to White Avenue – Refer to Schedule "B"

1.8 "Chief Building Official" means the Building Official or his/her designates for the Municipality of Arran-Elderslie.

1.9 "Chief Fire Official(s)" means an assistant to the Fire Marshal who is the Municipal Fire Chief, or a member or members of the Fire Department as delegated by the Municipal Fire Chief, as provided in the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, Part II, Article 6(6)

1.10 "Extinguish" means to put out or quench an open-air fire completely, no smoke, hot or glowing embers are to remain.

1.11 "Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

1.12 "Municipality" refers to the Corporation of the Municipality of Arran-Elderslie or the land within the geographic limits of the Corporation of the Municipality of Arran-Elderslie as the context requires.

1.13 "Non-Agricultural Open-Air Burn Permit" means a permit issued to the owner of Rural Property for a campfire/bonfire/burn barrel, issued in accordance with this By-law

1.14 "Open Air Fire" means any fire situated outside, whether burned in a container or on the ground, but does not include a gas-fired outdoor campfire device.

1.15 "Owner" means any person, firm or corporation having control over any portion of a building or property under consideration and includes the persons in the building or property.

1.16 "Open Air Burn Permit" means an Agricultural, Non-Agricultural or Urban

Recreational Burn Permit issued by the Municipality in accordance with this By-law. Hereto referred to as a "Permit".

1.17 "Permit Holder" means any person who is issued an Open-Air Burn Permit. This could include the owner or 3rd party permitted to obtain an Open-Air Burn Permit on the owners' behalf.

1.18 "Person" includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative.

1.19 "Property" means a parcel of land which is capable of being legally conveyed.

1.20 "Urban Recreational Open Air Burn Permit" means a permit issued to the owner of a property for a "Campfire/Bonfire" issued in accordance with this By-law

2. Application

2.1 This by-law shall apply throughout the whole of the Municipality.

3. Prohibitions

3.1 No person shall set, maintain, permit or cause to be set or maintained an open-air fire in the Municipality without a current valid permit.

3.2 No person shall set, maintain, permit or cause to be set or maintained, an open-air fire in the Municipality other than in accordance with this By-law and the terms and conditions of a permit.

3.3 No person shall set, maintain, permit or cause to be set or maintained, an Agricultural open-air fire in the Municipality without first notifying the fire department.

3.4 No person shall set or permit an open-air fire on any property owned by the Municipality without having obtained permission from the Municipality.

3.5 Fire – In central Business Districts – Prohibited
No person shall set an open fire in any of the central business districts of the Municipality. Refer to Schedule "B"

3.6 No person shall set, maintain, permit or cause to be set or maintained, an open-air fire during a fire ban.

3.7 No person shall attempt to demolish by burning, any structure or building without first obtaining the approval of the Chief Fire Official and Chief Building Official.

4. Permit

4.1 A person making an application for a permit for an open-air fire shall:

(a) submit a completed Open Air Burn Permit application provided by the Municipality;

(b) submit written permission of the registered owner of the property, if

applicable;

(c) submit any other documents as may be required by the Municipality;

(d) submit the required permit fee "no cost"; and

(e) Be held responsible for carrying out and adhering to this By-law;

4.2 A Non-Agricultural and Urban Recreational permit is valid for one full calendar year from date of issuance.

4.3 An Agricultural Open Air Burn Permit is valid for is valid for one full calendar year from date of issuance.

4.4 A permit is valid only for the property identified on the permit.

4.5 A permit is not transferable.

4.6 A permit is non-returnable and non-refundable.

4.7 An Agricultural Open Air Burn Permit shall only be issued for an Agricultural Property.

4.8 Agricultural and Non-Agricultural Open-Air Burning is not permitted in urban areas within the Municipality or on properties less than 2 acres in size.

4.9 An owner of property on which an open-air fire has been set or permitted to burn shall be deemed to have permitted the open-air fire and assumes all responsibility

5. Duties of the Permit Holder

5.1 Every permit holder shall ensure an open-air fire is attended and supervised at all times by a responsible person at least eighteen (18) years of age.

5.2 No person shall permit an open-air fire to occur without appropriate extinguishing agents or appropriate means to control the fire such as portable fire extinguishers, garden hose, portable pump and hose, frontend loader, skid steer, or excavator.

5.3 Every permit holder shall ensure an open-air fire is extinguished when not attended or supervised, by a responsible person at least eighteen (18) years of age.

5.4 No person shall permit an open-air fire to occur when the wind velocity is reported to be greater than fifteen (15) kilometers per hour.

5.5 Every permit holder shall ensure the open-air fire does not create excessive smoke.

5.6 Every permit holder shall ensure an open-air fire does not create a nuisance or have an adverse effect on a neighbouring property owner.

5.7 No person shall permit smoke from open-air fire to obstruct a highway.

5.8 Every permit holder shall, with respect to a permit issued for Agricultural open air burning, ensure that:

- (a) It's a minimum of ten (10) meters (thirty-three (33 feet)) from combustible structure, vegetation, or other combustible material, highway, overhead wire or a property line; and
- (b) the volume of materials burned at one time does not exceed a quantity that can be safely managed with on-site extinguishment capabilities. Regardless of those capabilities, the maximum pile size shall not exceed six (6) meters by six (6) meters by two (2) meters high (twenty (20) feet long by twenty (20) feet wide by six (6) feet high).
- (c) the burn site is clear of ground cover vegetation and shall specify the means taken for such clearing ie: tilling the subject land.

5.9 Every permit holder shall, with respect to a permit issued for a Non-Agricultural or Urban recreational open-air fire shall ensure that:

- (a) It is physically confined i.e., by a steel rim, bricks, or stones; and
- (b) It is a minimum of three (3) meters (ten (10) feet) from combustible structure, vegetation, or other combustible material, highway, overhead wire or a property line.

5.10 No person shall burn any prohibited items including but not limited to the following as listed below:

- (a) petroleum based products such as oil or grease;
- (b) asphalt materials including building materials;
- (c) aerosol or pressurized containers;
- (d) wood products with high glue content (i.e., particle board);
- (e) painted wood;
- (f) products known to be harmful to the environment;
- (g) rubber products including tires;
- (h) plastic products;
- (i) wood or paper products treated with chemical preservatives;
- (j) household garbage.
- (k) Grass, weeds, tree limbs and brush in urban areas

5.11 No person shall set an open-air fire in contravention of any Ministry of Environment regulations.

5.12 Every permit holder shall ensure an agricultural open-air fire is conducted in daylight hours beginning not less than 1/2 hour after sunrise and concluding 1/2 hour before sunset. The permit holder shall also ensure the fire is completely extinguished not later than 1/2 hour before sunset.

6. Exemptions

6.1 This By-law does not apply to a small, confined fire that is:

- (a) used to cook food on a grill, barbeque, or spit;
- (b) proportionate with the type and quantity of food being cooked; and
- (c) supervised at all times

6.2 This By-law does not apply to the use of an appliance that:

- a) meets the requirements of the Technical Standards and Safety Act, 2000;
- b) is for outdoor use;
- c) if assembled, has been assembled in accordance with the manufacturer's instructions; and
- d) if installed, has been installed in accordance with the manufacturer's instructions.

6.3 The Municipality is exempt from the provisions of this By-law for the purpose of conducting training, education or research for Arran-Elderslie Fire & Emergency Services Department.

6.4 This by-law shall not pertain to employees of the Municipality of Arran-Elderslie in the performance of their duties.

7. Delegated Authority

7.1 The Chief Fire Official or his/her designate is hereby delegated authority to issue a permit in accordance with the provisions of this By-law. As the delegated authority, the Chief Fire Official or his/her designate may:

- (a) refuse to issue a permit where a person has previously failed to comply with the terms and conditions of a permit or the provisions of this By-law;
- (b) impose any additional terms or conditions that he considers necessary in the interest of public safety;
- (c) conduct a site visit to ensure adherence with this By-law;
- (d) vary the terms and conditions of a permit upon conducting a site visit and determining safety is maintained through approved site-specific terms and conditions;
- (e) revoke a permit where complaints are received regarding an open-air fire or for failing to comply with the terms and conditions of a permit.
- (f) order any person to extinguish any fire
- (g) cause such a fire to be extinguished
- (h) declare a total ban against outdoor burning when atmospheric conditions or local circumstances make such fires hazardous.

8. Fees

8.1 The fee for a permit shall be as prescribed in the Municipality's Fees and Charges By-law. Note: Current no fee for open-air burn permit

9. Penalty

9.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.

9.2 Penalties and set fines for the violation of this by-law are set out in

Schedule A.

9.3 A By-law Enforcement Officer has authority to enforce the provisions of this By-law or any part or parts thereof.

10. Indemnification

10.1 The owner(s) agree on behalf of himself, its heirs, executors, administrators and assigns to defend, indemnify and save harmless the Municipality, and their elected officials, 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 owner(s), its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the issuing of a permit.

11. Severability

11.1 That if a court of competent jurisdiction declares any provision, or any 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 in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

12. Force and Effect

12.1 That By-law 19-2021 is hereby amended upon the passage of this by-law.

12.2 That any previously passed by-laws, resolutions, or provisions which are inconsistent with the provisions of this by-law are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this by-law.

13. Short Title

13.1 That this by-law may be referred to as the "Open Air Burning By-law".

READ a FIRST and SECOND time this 10th day of January, 2021.

READ a THIRD time and finally passed this 10th day of January, 2021.

The Corporation of the
Municipality of Arran-Elderslie

Steve Hammell, Mayor

Christine Fraser-McDonald, Clerk

Schedule A
Municipality of Arran-Elderslie
Part 1 Provincial Offences Act
By-law No.19-2021: Open Air Burning

Set Fines Schedule

ITEM	COLUMN 1	COLUMN 2	COLUMN 3
	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Burning without obtaining a permit	3.1	\$300
2	Failure to notify Fire Department prior to conducting an Agricultural or Non-Agricultural open air fire	3.3	\$100
3	Set or maintain an open-air fire during a fire ban	3.6	\$500
4	Failure to obtain the approval of the Chief Fire Official and Chief Building Official prior to demolish by burning any structure or building.	3.7	\$500
5	Failure to have an open-air fire under supervision	5.1	\$100
6	Failure to have appropriate extinguishing agents or appropriate means to control open air fire	5.2	\$200
7	Burn Prohibited Item	5.10	\$500

NOTE: the general penalty provision for the offences listed above is Section 9 of By-law 19-2021, a certified copy of which has been filed.

SCHEDULE B – BYLAW 19-2021

Central Business Districts

