

(Consolidated Copy – Amended by By-Law 81 of 2002)
BY-LAW NUMBER 91 OF 2001
OF THE CITY OF SARNIA

**“A By-Law to Regulate Open Air Burning
in the City of Sarnia”**

WHEREAS section 210, paragraph 35 of the *Municipal Act*, provides that Council may prescribe for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting such open air fires;

AND WHEREAS section 210, paragraph 49 of the *Municipal Act*, provides that Council may make such other regulations for preventing fires and the spread of fires as is considered necessary;

AND WHEREAS section 326 of the *Municipal Act* authorizes where a municipal council has the authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and the corporation may recover the expense incurred in doing it by action or the same may be recovered in like manner as municipal taxes or council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding ten years;

AND WHEREAS section 220.1 of the *Municipal Act* authorizes a municipality 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 2.6.3.4 of the *Ontario Fire Code* provides for the prohibition of open air burning unless approved or unless such open air burning consists of the use of a barbecue to cook food, provided such devices contain a small contained fire which is supervised at all times.

THEREFORE the Municipal Council of The Corporation of the City of Sarnia enacts as follows:

Part 1

DEFINITIONS AND ADMINISTRATION

1.1 Definitions

For the purposes of this by-law:

- (a) “**Applicant**” shall mean the person, organization, company or group that makes application to the Fire Chief for permission to hold an open air burning and includes such persons who contact the Fire Chief with notification of an intention to hold an open air burning of brush in the rural area.
- (b) “**Barbecue**” appliances include a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire pits or camp fires.
- (c) “**Open Air Burning**” shall mean the burning of any material, including without limiting the generality of the foregoing, wood, cardboard, brush or garden waste where the flame is not wholly contained and is, thereby, open to the air.
- (d) “**Open Burning Device**” shall mean any commercially manufactured device for the purpose of containing a recreational fire.
- (e) “**City**” shall mean The Corporation of the City of Sarnia
- (f) “**Fire Chief**” shall mean the Fire Chief for the City of Sarnia Fire Services and members of the City of Sarnia Fire Services acting under the Fire Chief’s direction.

1.2 Administration

This by-law shall be administered by the Fire Chief.

1.3 Fire Services - Exempt

The City of Sarnia Fire Services shall be exempt from the provisions of this by-law with respect to open air burnings set for the purposes of educating and training individuals.

Part 2 GENERAL PROVISIONS

2.1 Open air burning - Regulations

No person shall conduct, or permit to be conducted, an open air burning within the boundaries of the City of Sarnia unless permission has been given by the Fire Chief hereunder.

2.2 Exception - Recreational Burning

Despite Section 2.1 above, permission is not required from the Fire Chief for open air burnings associated with the use of open burning devices or pits specifically designed for open air burnings, provided that each of the following regulations are complied with:

- (a) open air burning may only be conducted between the hours of 10:00 AM and 11:00 PM;
- (b) open burnings shall be confined to open burning devices or to a pit no larger than two (2) feet (61 centimetres) by two (2) feet (61 centimetres) in size. When in use, the open burning device or pit shall be covered with a heavy gauge metal screen having a mesh size no larger than one (1) inch (26 millimetres) and which is positioned in such a manner as to preclude the escape of combustible materials including ash;
- (c) no more than eight (8) inches (21 centimeters) of the containment area shall be above grade with a maximum depth of sixteen (16) inches (42 centimeters);
- (d) no materials other than commercially produced charcoal, briquets or clean, dry seasoned wood, not including pressure treated wood or creosote treated wood, may be burned;
- (e) the dimensions of the wood being burnt shall not be greater than the size of the appliance or fire pit and shall be totally confined within the appliance or pit at all times;
- (f) an open air burning shall be confined to a location that provides for a minimum distance of 3 metres in all directions from adjacent properties;
- (g) open air burnings shall be confined to an area that is a minimum of 3 metres from combustible structures or objects;
- (h) an effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use;
- (i) open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the open air burn site is vacated;

- (j) open air burnings are not permitted when the wind speed exceeds 30 kilometres per hour or during rainy or foggy weather or at times when a smog alert has been declared by the Ministry of the Environment for Ontario; and
- (k) steps are to be taken to ensure that adjacent properties are protected from fire hazard. Should the Sarnia Fire Service be dispatched to such a complaint regarding public safety due to fire hazard, the Fire Officer will have the discretion to determine compliance and this decision will be final.

2.3 Exception - barbecues

Despite Section 2.1 above, permission is not required from the Fire Chief for the use of barbecues to cook food, provided the following regulations are complied with:

- (a) the barbeque is placed on non-flammable material, is supervised at all times and such appliance complies with the regulations of size found in section 2.2(b).
- (b) the fuel used is a commercially produced charcoal or briquet, or a flammable liquid commercially produced for the purpose of cooking such as natural gas and propane gas.

2.4 Permit - special events

- (a) All persons seeking permission to hold a special event involving an open air burning that is not a recreational burning as per section 2.2 and does not employ the use of a barbecue as per section 2.3 shall apply to the Fire Chief for a permit to have an open fire at such event.
- (b) Application shall be made a least one week prior to the proposed date of the event on a form supplied by the Fire Chief and such application should be accompanied by the applicable fee as set out in Schedule “A” to this by-law. The Fire Chief may issue permits to allow a special event to reoccur over an extended period of time. Registered not-for-profit charitable organizations may make application to the Fire Chief requesting a permit fee exemption.
- (c) Prior to granting a permit to hold an open air burning for a special event, the Fire Chief will give consideration to the location of the proposed event, the size of the proposed fire, the safety measures proposed, the supervision arrangements proposed, the time of year, the time of day and the anticipated weather conditions.
- (d) The Fire Chief may refuse to grant a permit to hold open air burnings at special events which are proposed to take place on land that is zoned for residential uses.

- (e) The Fire Chief may refuse to grant a permit for an open air burning if the proposed open air burning would be in contravention of this by-law, if the applicant has contravened the provisions of this by-law in the past or if the applicant has not complied with any conditions attached to a permit for an open air burning that may have been imposed by the Fire Chief on a previous occasion.
- (f) The Fire Chief shall not give permission for open air burning of any non wood combustible material, pressure treated wood or creosote treated wood. Permissible fuels include clean dry seasoned wood, commercially produced charcoal, briquets and flammable liquids such as natural gas and propane gas intended for cooking.
- (g) The Fire Chief may attach such conditions as deemed appropriate to any permit granted for an open air burning at a special event.
- (h) The Fire Chief may withdraw permission for and/or stop an open air burning if, in the Fire Chief's opinion, the fire presents a fire hazard, smoke produced by the fire is causing visibility concerns on roads in the area of the burn, the weather has deteriorated and has become unfavorable for an open air burning, conditions attached to the granting of permission are not being adhered to or if this by-law is being contravened.
- (i) Upon the notification of the withdrawal of permission by the Fire Chief, the applicant shall immediately extinguish the fire.
- (j) Should the applicant fail to immediately extinguish the fire upon notification from the Fire Chief, the applicant may be held liable for any and all costs incurred by the City of Sarnia Fire Services in its efforts to extinguish the fire.

2.5 Order to extinguish unapproved fires

- (a) When made aware of a prohibited open air burning not authorized under this By-Law, the Fire Chief shall order the land owner or occupant to immediately extinguish the fire.
- (b) The owner or occupant of land on which a prohibited open air burning is located, shall immediately extinguish the fire upon being ordered to do so by the Fire Chief.

- (c) Should any land owner or occupant fail to extinguish a prohibited open air burning when ordered to do so by the Fire Chief, the Fire Chief may take action to have the fire extinguished, and the person who owns or occupies the land on which the open burning is located shall be responsible for any and all costs incurred by the City of Sarnia Fire Services in its efforts to extinguish the fire.

B/L 81 of 2002 (d) Notwithstanding subsection 2.5(a), on the third attendance in any calendar year to a particular municipal address, the City of Sarnia Fire Services shall immediately take whatever steps are necessary to extinguish a fire that is an open air burning found not to be in compliance with this By-Law. Upon verbal verification by the City of Sarnia Fire Services that the fire is extinguished, the person who owns or occupies the property shall pay the fee in accordance with the Fees By-Law for the City of Sarnia for "Open Burning - No permit where a permit is required".

Part 3

SPECIAL REGULATIONS FOR RURAL AREA

3.1 Permission - brush burning - telephone

No person shall conduct, or permit to be conducted an open air burning in the rural area which is not authorized under Section 2.2, 2.3 or 2.4 without first notifying the Sarnia Fire Service in person or by telephone and complying with the provisions of Section 3.3 below.

3.2 Notification at conclusion of burning -rural area

All persons who have given notification pursuant to section 3.1 above, shall notify Sarnia Fire Services in person or by telephone at the conclusion of the burning.

3.3 Regulations re open air burning - rural area

The following regulations shall apply with respect to open air burnings in the rural area:

- (a) open air burnings may be conducted between the hours of 8:00 AM and 6:00 PM only.
- (b) no materials other than dry brush may be burned.
- (c) open air burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated.
- (d) open air burnings are not permitted during rainy, foggy weather or on smog alert days as declared by the Ministry of Environment for Ontario.

- (e) an open air burning shall be confined to an area which is at least 150 feet [45 metres] from any building, highway, road, or a wooded area.
- (f) steps must be taken to ensure that smoke caused by an open burn does not have a negative impact the visibility of motorists using roads in the vicinity of the burn.

3.4 Notification to extinguish

All persons conducting an open air burning in the rural area shall immediately extinguish the fire upon notification that in the Fire Chief's opinion, the said fire presents a fire hazard, the fire is having a negative impact on persons using a road or highway adjacent to the burn site or the regulations of this by-law are being contravened.

3.5 Failure to extinguish - liable for costs

Should any land owner or occupant fail to extinguish a prohibited open air burning in a rural area when ordered to do so by the Fire Chief, the Fire Chief may take action to have the fire extinguished, and the person who owns or occupies the land on which the open burning is located shall be responsible for any and all costs incurred by the City of Sarnia Fire Services in its efforts to extinguish the fire.

Part 4 ENFORCEMENT

4.1 Regulations - offence

No person shall fail to comply with regulations as set out in this by-law and any person who contravenes this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

4.2 Continuation - repetition - prohibition by order

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

4.3 Default - collection of costs

The City has the right to collect any unpaid costs as authorized by this by-law by adding such charges to the tax roll where they may be collected in a like manner as municipal taxes, all in accordance with Section 326 of the *Municipal Act*.

Part 5
ENACTMENT

5.1 Headings

The headings in the body of this by-law form no part of the by-law but are inserted for convenience of reference only.

5.2 Severability

If any section or sections of this by-law or parts thereof be found by any court to be illegal or beyond the power of Council to enact, such section or 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 therefrom and continue in full force and effect unless and until similarly found and this by-law shall be enacted as such.

5.3 Short Title

The short title of this by-law is “Open Burning By-Law”.

5.4 Effective date

This by-law comes into force on the day it is passed by Council.

FINALLY PASSED on this 28th day of May, 2001

“Mike Bradley”

Mayor

“Ann Tuplin”

Clerk

SCHEDULE "A"
TO BY-LAW NUMBER 91 OF 2001
OF THE CITY OF SARNIA

Special Event Open Burning Permit Fee

\$20.00

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READINGS:

FIRST: May 28, 2001

SECOND: May 28, 2001

THIRD: May 28, 2001

THE CORPORATION OF THE CITY OF SARNIA
LEGAL SERVICES
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Sarnia, Ontario N7T 7N2